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Malaysia

Touche Ross International

business study

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Preface

This study is one of a series of business studies designed for the use of Touche Ross professional staff in all countries and for interested clients. The information contained in this study has been obtained by the Touche Ross offices in the country concerned from sources believed to be reliable, but no legal responsibility is taken for the accuracy of any particular statement. The many legal and tax problems arising in practice are beyond the scope of this study, and on specific business questions the assistance of professional advisors is recommended. Readers should ascertain whether the information given has been superseded by later developments. Suggestions for revisions should be sent to the Touche Ross International Executive Office.

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Introduction

Malaysia, an entrepôt of trade for centuries, a haven for sea-faring merchants from India and far-off Europe in search of the riches and spices of the East and for trading junks driven by monsoon winds across the China Sea with their precious cargoes of silks and porcelain.

The diversity of trade led to cultural interchange with peoples of all races, from all parts of the globe. Populations in Malaysia's coastal towns were as cosmopolitan as the trade was diverse.

Today, as Malaysia develops its natural resources and its drive to industrialize, trade is again the key to the material well-being the nation seeks for its people.

Malaysia is the world's leading producer of natural rubber and the foremost exporter of tropical hardwoods. It accounts for over 40% of the total tin output and, since 1972, it has been the major producer of palm oil. The government has discarded its policy of trading only with non-communist countries and, while its principal trading partners are Japan, the United States, the Common Market countries, and Singapore, China is fast becoming an important consumer of the country's rubber and a major supplier of its food needs.

The Malaysian economy adheres basically to the free enterprise system. The government's role is largely confined to planning economic expansion, developing infrastructure facilities and promoting new industries in the private and public sectors. Foreign and private investment is encouraged and industry incentives offered.

The nation's economic progress has exceeded plan targets and is better than the development rate in most developing countries. The per capita national income is one of the highest in Asia, although income distribution is uneven. Agriculture continues to be the mainstay of the economy accounting for about 50% of all export earnings. Other sectors, however, such as manufacturing, forestry and construction are developing at a faster growth rate. Diversification of crops is encouraged by the government.

Despite the recent world recession, Malaysia's balance of payments position remains favorable. Its strong currency is supported by a stable progressive economy and considerable export earnings. Foreign exchange reserves at the end of September 1975 stood at M$3,738 million, reflecting the export boom and inflow of private capital.

The information contained in this Business Study was provided by the firm of Hanafiah, Raslan & Mohamad, the Malaysian member firm of Touche Ross International.

Linda S. Avelar
Director of International Publications
May 1976

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THE COUNTRY

Location and Area. Malaysia is centrally located in Southeast Asia. It consists of Peninsular West Malaysia and East Malaysia which are separated by approximately 400 miles (644 kilometers) of the South China Sea. It lies between latitudes ½ degree and 7 degrees north and longitudes 110 degrees and 119½ degrees east.

Being partly on both mainland Southeast Asia and the island of Borneo, Malaysia occupies a strategic position. Peninsular West Malaysia, 460 miles (740 km.) long and 200 miles (322 km.) wide, shares a common frontier with Thailand on the north. On the west, it faces the Indonesian island of Sumatra across the narrow Strait of Malacca, and on the south, it is linked with Singapore by a three-quarter mile (1.21 km.) causeway. East Malaysia, which includes the states of Sarawak and Sabah on the island of Borneo, shares a 900-mile (1,448 km.) frontier with Indonesian Borneo. Sarawak, a coastal strip, is 450 miles (724 km.) long and varies between 40 to 120 miles (64 to 193 km.) in width. Sabah, with an area of 28,725 square miles (74,398 sq. km.), is located in the extreme north of Borneo and faces the Philippines.

Malaysia's total land area of 127,581 square miles (330,435 sq. km.) is about equal in size to Japan and only slightly larger than the British Isles.

Terrain. The whole country can be described as gently rolling. In West Malaysia, a series of mountain ranges run parallel to one another through the center of the country, tapering off into lowland areas.

East Malaysia, crisscrossed by a number of relatively low mountain chains, has, however, the highest peak in Southeast Asia—Mt. Kinabalu, in Sabah (13,455 feet or 21,650 meters). Sarawak, in contrast to Sabah which is mountainous in the interior sections and in parts very rugged, has considerable areas of alluvial coastal plains varying in width between 10 to 100 miles (16 to 161 km.).

Climate. Situated close to the equator, Malaysia is characterized by uniformly high temperatures, high humidity and abundant rainfall throughout the year. Temperatures are fairly constant, averaging around 80°F (26.5°C). Mean annual rainfall in West Malaysia is 100 inches (254 centimeters) with most of the rain occurring during the southwest monsoon from November to March. In East Malaysia, the mean annual rainfall is 150 inches (381 cm.), with heavy rains during the northeast monsoon from May to September. The transitional months between the monsoons are periods of calm weather and light conventional rainfall.

Principal Cities. Kuala Lumpur is the capital and the largest city in Malaysia. Located at the confluence of the Klang and Gombak rivers, the city began as a small mining settlement that grew in importance as a tin-collecting and trading center in the 19th century. With the development of the rubber industry, it became a thriving center of commerce. Kuala Lumpur is well served by a good internal system of roads and is linked to other parts of the country by roads, railways and airlines. It is 14 miles (24 km.) from Malaysia's International Airport at Subang and 27 miles (43 km.) from Port Kelang.

The distance from Kuala Lumpur to other major cities of the world is as follows:

	Miles	Kilometers		Miles	Kilometers
Bangkok	748	1,203.53	New Delhi	2,385	3,837.47
Canberra	4,266	6,863.99	New York	10,084	16,225.16
Colombo	1,515	2,437.64	Paris	7,007	11,274.26
Hong Kong	1,575	2,534.18	Rangoon	1,111	1,787.60
Jakarta	761	1,224.45	Singapore	204	328.24
London	7,715	12,413.33	Sydney	4,118	6,625.86
Manila	1,685	2,711.17	Tokyo	3,363	5,411.07

Penang is the chief port and the second largest city in Malaysia. An efficient ferry plies between the island of Penang and the mainland, although plans are now underway to construct a bridge connecting it to the mainland. Since its founding, Penang has been an entrepôt for the neighboring countries of Thailand, Indonesian Sumatra and, to a smaller extent, Burma. Penang enjoys a restricted free port status with a 2% surtax levied on all imports, except rubber, tin and tuna fish. The island is also an important tourist and vacation resort.

NATURAL RESOURCES

"Malaysia is one of the hopeful Asian nations with a great future. Malaysians are a 'talented and competent people' with a willingness to modernize, and the country has abundant land and sufficient capital resources."*

*Dr. Herman Kahn—*New Straits Times* of Malaysia—February 19, 1975 (Fifth International Symposium on Energy Resources & Environment, Kuala Lumpur)

Rubber. High quality natural rubber is Malaysia's largest foreign exchange earner. She currently leads the world in its producticn.

Minerals. Tin is Malaysia's most important mineral, and for over 77 years she has been the largest producer and is still responsible for 40% of the world's total tin output. Production reached its peak of 76,800 tons in 1972, but declined to 64,000 tons in 1975 due to the gradual depletion of alluvial tin ore-bearing deposits and the high costs of production, the latter forcing several gravel pump mines to close down. High tin prices, however, have sparked offshore tin exploration, and tin deposits have been found off the coasts of Perak, Johore and Malacca in West Malaysia, making offshore mining a potential major source of supply.

Iron ore production reached a peak of 7.2 million tons in 1963, but gradually declined after the closing of the largest mine in Rompin. Production of bauxite (used in the production of aluminum), on the other hand, increased to a peak level of 1,121,318 tons in 1970.

Production, in long tons, of other minerals found in Peninsular West Malaysia (1971) is given below:

Copper ore	1,019.09
Kaolin (China clay)	7,271.97
Hametite ore	360.72
Manganese ore	12,700.00
Wolfram ore	258.53
Ilmenite	153,519.75
Columbite	29.93
Zircon	2,703.00
Tin slag	1,408.00
Monazite	1,448.00
Other ores of thorium	97.25

Petroleum. This natural resource is found in East Malaysia, but recent explorations have also revealed the existence of petroleum off the coast of West Malaysia (Pahang and Trengganu). Production of crude oil was estimated at 32.6 million barrels in 1975 (about 90,000 barrels per day), an increase of almost 10% over 1974 production. This increase in production was the result of new operations by two oil companies in Sabah, namely, Exxon Production (October 1974) and Sabah Shell Petroleum (July 1975). Production is expected to increase by about 11% in 1976 to 36.3 million barrels (100,000 barrels per day).

The petroleum industry's total output is expected to improve further with the potential increase in production of crude oil, current and future explorations and the building of petrochemical plants and refineries. Nine oil companies are at present prospecting for oil in Malaysia, and by 1977 production should be up to 200,000 barrels a day.

The crude petroleum exported by Sarawak is in great demand overseas because of its low sulphur content. Natural gas was discovered off its coast in 1971, and a liquified gas plant, estimated at M$400 million, is being built at Bintulu, Sarawak. It is expected to be operational by the 1980s.

Timber. Malaysia's still unexploited forests contain the world's largest source of tropical hardwoods, making it the foremost exporter of these woods.

At the end of 1972, total forest areas in Peninsular West Malaysia represented 62% of the total land area. In Sarawak, it is estimated that 184 million cubic yards (140 million cubic meters) of all species of timber are available for exploitation. Because of the steadily increasing production of sawn timber and logs, in 1972 timber exports replaced tin as the second largest foreign exchange earner in Malaysia, and by 1975 total export earnings were approximately M$991 million.

Fishing. Malaysia's surrounding waters abound in fish. In 1973, total haul of marine fish, including prawns, was 44,100 tons, and by 1975 this figure had increased to 568,400 tons.

Water. West Malaysia has abundant rainfall throughout the year with an annual average of 100 inches (254 cm.). Gradients in the upper courses of rivers are very steep and, together with evenly distributed and plentiful rainfall, serve as excellent sources of potential power.

THE MALAYSIAN PEOPLE

Population. Malaysia is a multi-racial country with a total population estimated at almost 12 million in 1975. Of this total, approximately 10 million (of which 88% are Malays and Chinese) are found in West Malaysia and about 2 million (high percentage of indigenous peoples) in Sabah and Sarawak.

Malaysia's population had been increasing at the rate of 2.8% a year, but in 1975 it decreased slightly to 2.7%. Average population density for the whole country is 85 persons per square mile (33 persons per sq. km.) with West Malaysia, the more populated area, having a density of 124 persons per square mile (48 persons per sq. km.). East Malaysia, which occupies 60% of the land, has a density of only 21 persons per square mile (8 persons per sq. km.).

Language. Malaysia is a multi-lingual society with Malay the national and official language of the country. Most people are trilingual, and in addition to Malay are conversant in Chinese or Tamil and English. English, being a compulsory subject in all schools, is widely used, especially in commerce and industry. Few, if any, language barriers exist to holding business or social conversations with foreigners.

Education. Free, compulsory schooling for all children through a minimum of six years of government school has resulted in Malaysia's high ranking educational attainment among the countries of Southeast Asia.

The educational system is broadly structured along the same lines as the British system; however, both Malay and English are used for instruction. Higher education and industrial training are provided by both public and private institutions such as the University of Malaya, the University of Science, the National University and various institutes of technology.

The overall literacy rate is estimated at 77%, with the highest percentage for the under-25 age group, and the lowest of 39% for the over-45 group. The 25 to 45 age group has a literacy rate of 69%.

Religion. Although Islam is the official religion of Malaysia, there is complete freedom of worship for all faiths. Mosques, churches, temples, and monasteries are to be found throughout the country.

Life in Malaysia. Malaysians enjoy one of the highest standards of living in Southeast Asia. Per capita income for 1975 was M$1,690, roughly US$660.

Although only about 29% of the total population live in urban areas, a vast network of roads and railways links the major centers of commerce with the outlying districts. Rural areas have been opened up by the availability of electric power and water, modern farming practices, schools and social facilities.

A literacy rate of over 75% attests to the fact that Malaysians are now better educated and better informed. Language barriers are practically nonexistent, even for the foreigner, since most people speak two or three languages. English is widely used, especially in commerce and industry.

Malaysia in Brief

National radio and television centers broadcast in four languages and several dialects. Newspapers are also available in various languages. In 1973, the ratio of television ownership was one per 31 households while radio was one per 28 and telephone was one per 13.

Malaysians are great sports enthusiasts. Badminton, soccer, rugby, and hockey are among their favorites. Horse racing is also very popular and takes place throughout the year in the three main cities of Kuala Lumpur, Penang and Ipoh. Live telecast of international games is possible through satellite communications.

Cosmopolitan Malaysia provides all the amenities that modern city living has to offer—movie theaters, night clubs, museums, art galleries, sports and social clubs are all available. Hotels and restaurants are of international standard with continental cuisine and exotic Asian dishes served in a charming atmosphere. Shopping facilities exhibit some of the best products both East and West have to offer.

Housing accommodations are not difficult to obtain, and domestic help can be had either on a full-time or part-time basis. Hospitals and dental and medical services are among the best in Asia.

Malaysia has one of the best educational systems in Southeast Asia with much of the teaching done in English. There are several private schools which cater to the needs and requirements of American, European and Japanese children.

A gentle way of life is giving way to a quicker pace, a faster tempo. Still, Malaysia's rich and colorful culture continues to be enriched by her various peoples' adherence to age-old traditions and customs. And so Malaysia today offers the best of two worlds—the peaceful and rustic charm of her countryside and the throbbing vitality of her modern cities.

Malaysia's Origin. The Malays are believed to have originated in the region of Yunan in China. There was also some later migration of Malays from Indonesia, Sumatra and the Celebes. Most Chinese in Malaysia are from the southeastern provinces of China and the island of Hainan. The Malaysian Indians originated in the southern part of India and Ceylon.

The indigenous peoples of Sabah and Sarawak are descendants of people originally in Borneo before Islam.

Malaysia's History. The early history of West Malaysia is interwoven with that of Sumatra and with the successive Buddhist, Hindu and Islamic empires which over the centuries ruled Southeast Asia. The strategic importance of the Strait of Malacca had long been recognized. As early as the 15th century, a powerful Malay kingdom was founded with its capital at Malacca. The Portuguese, Dutch and British, who were in search of trading bases, established themselves in Malacca in the 16th, 17th and 18th centuries, respectively.

Several parts of Peninsular West Malaysia came under British influence, and in 1948 the Federation of Malaya was established. It was granted full independence in 1957, however. In 1963 the British colonies of Singapore, Sarawak and Sabah (North Borneo) joined the Federation of Malaya to form the Federation of Malaysia. Singapore, however, withdrew from the Federation in 1965 to become an independent republic.

Sabah and Sarawak became British protectorates in 1882 and 1888 respectively. Sabah, formerly called North Borneo, assumed its present name in 1963 when it joined the Federation. Sarawak became a crown colony in 1946.

THE MALAYSIAN GOVERNMENT

Malaysia follows a parliamentary democratic system of government with the supportive head of state, the Yang di-Pertuan Agong, being elected by the Conference of Rulers for a five-year period.

Executive Powers. Executive power resides with the Cabinet and the Prime Minister who is appointed by the Yang di-Pertuan Agong and is the leader of the majority party in the House of Representatives. Upon the Prime Minister's advice and after consulting with the Conference of Rulers, the Agong appoints the members of the Cabinet, from either house of Parliament, and the judges of the Federal Court and the High Courts.

Legislative Powers. The Malaysian Government is three-tiered: on one level is the federal government; on another, the state government; and on the third, the local government. The federal government, with some exceptions, makes the laws for the whole or any part of Malaysia. The Parliament is bicameral with a Senate (Dewan Negara) and a House of Representatives (Dewan Ra'ayet). The Senate can initiate legislation, but all bills on money matters must first be introduced in the House of Representatives. A bill originating in the Senate cannot receive royal approval until it has been passed by the House of Representatives. The Senate, however, has delaying powers over a bill originating in and approved by the House of Representatives. The House of Representatives (Dewan Ra'ayet) has 154 elected members, 114 of whom are from the 11 states of Peninsular West Malaysia, 24 from Sarawak, and 16 from Sabah. The Constitution was amended to incorporate the Federal Constituency, an area of 94 square miles (243.5 sq. km.) centered around Kuala Lumpur and alienated to the federal government by the Selangor state government in February 1974. The Federal Constituency was allotted five seats in the Dewan Ra'ayet. Conversely, the number of seats allotted to Selangor was reduced from 14 to 11. Members are elected by the voters in direct elections which are held every five years. Parliament can be dissolved at any time by a vote of no confidence against the majority party or at the request of the majority party itself. Elections must then be held within 60 days.

Every citizen over 21 years of age is eligible to vote in the general elections. A prerequisite, however, is that the voter's name be registered on the electoral rolls.

The judicial power of the Federation is vested in a Federal Court and two High Courts of coordinate jurisdiction and status. The Federal Court (similar to the Supreme Court in the United States) has exclusive jurisdiction in determining appeals from lower courts, in establishing the validity of laws made by Parliament, in settling disputes between the states and the federal government, and has the authority to resolve any question referred by the Yang di-Pertuan Agong on the effect of any provision of the Constitution. Appeals from the Federal Court may be referred to the Privy Council in London. The High Court has unlimited original criminal and civil jurisdiction and can pass any sentence allowed by law. Below the High Courts are the subordinate courts: the Sessions Court, the Magistrate Court and the Penghulus Court. There are two other courts: the Court of Official Assignee, which handles bankruptcy cases, and the Industrial Court, which is in charge of settling industrial disputes. Each of the states has its own system for dealing with questions relating to Muslim personal laws, and this is handled by Muslim religious courts. In Sabah and Sarawak, native customs courts handle all matters pertaining to laws and customs of the various indigenous peoples.

State Government. Each of the states has a ruler who governs on the advice of the State Executive Cabinet which is headed by the leader of the majority party in the State Legislative Assembly. Every state possesses its own written constitution and has a single chamber Legislative Assembly, which has powers to legislate on matters not reserved for the Federal Parliament. If any law is inconsistent with a federal law, the federal law prevails.

Local Government. Each state is divided into administrative districts, each under a district officer directly responsible to the Land Office. All local authorities are elected by secret ballot and are responsible to the State Legislative Assembly. Different types of local authorities have varying degrees of autonomy. George Town, Penang, has one city council and two municipalities whose members are elected and presided over by an elected mayor. Other forms of local authority under various state governments are the town councils, local councils, district and rural district councils.

Political Parties. The current ruling party in Malaysia is the National Front, or Barisian Nasional, which came into power in the 1974 general elections. This party is a coalition of several parties with the opposing parties represented in Parliament by the Democratic Action Party (DAP), Pekemas and the Sarawak National Party (SNAP).

THE MALAYSIAN ECONOMY

Malaysia basically enjoys a free enterprise system where private investment plays a vital role in its economic development. The government is largely confined to creating a suitable investment climate, to providing all necessary infrastructure facilities and to acting as a catalyst for the development of the economy. Foreign investment has played an important part in Malaysia's economic growth, especially in the area of industrial development where local technological and management expertise were lacking.

The economy is still dependent on agriculture which in 1974 accounted for 34% of the gross national product (GNP), 50% of employment and over 50% of gross export earnings. However, compared to many developing countries, a large part of agricultural products is still exported, although in recent years an increasing proportion of the primary export commodities is processed before export.

Malaysia is the world's leading producer and exporter of rubber, tin and, since 1972, palm oil and tropical hardwoods. Manufacturing, which in 1970 constituted 14% of the gross domestic product (GDP), grew at an average annual rate of 16% during the period 1971 to 1973. In 1973, it constituted 18% of the GDP with a total value exceeding M$1,900 million. It also accounted for 15.2% of total export earnings for that year.

The average growth rate of the real GNP is 6% a year. Malaysia's per capita income of M$1,690 in 1975 was one of the highest among its Asian neighbors.

Malaysia in Brief

Labor Force. In 1975, the labor force was estimated at 4.3 million or approximately 36% of the total population. A high percentage of this labor force is comprised of young people, and with good training facilities now available productivity is expected to increase further. The unemployment rate for 1975 was 7.4% as compared to 7.2% in 1974 and 7.3% in 1973.

Government Ownership. All public utilities except urban public transport are controlled by the government. They include electricity, water supply, postal service, telecommunications, and railways. Malaysia's only domestic and international airline, MAS (Malaysian Airline System), and its national shipping line, MISC (Malaysian International Shipping Corporation), are owned by the government. In addition, there are the various state economic development corporations and other government corporations with interests in many sectors of the economy. PETRONAS (Petroleum Nasional), which was recently formed, was given sole rights to all petroleum deposits in the country. Radio and television services are also owned and operated by the government.

Balance of Payments. Malaysia's balance of payments position has been favorable, on the whole, with an overall surplus of M$452 million in 1974 and a deficit of M$100 million in 1975. Gross international reserves at the end of September 1975 stood at M$3,738 million, reflecting the export boom and inflow of private capital. There is heavy reliance on the export market as earnings from this area together with the inflow of long-term financial resources are expected to finance the traditional deficit on the services and transfers account. For the period 1961 to 1974, the merchandise account showed a consistent surplus, and the figure of M$1,594 million at the end of 1974 was the highest on record.

Economic Statistics. The following statistics indicate the size and trend of the Malaysian economy:

	1970	1971	1972	1973	1974	1975 (Est.)
Consumer Price Index (1967 = 100)	101.3	102.9	106.2	110.5	117.4	144.0
Gross National Product (M$ million)	11,617	12,273	13,194	16,224	19,600	20,400
Per Capita Income	1,069	1,088	1,120	1,374	1,616	1,690

The sharp rise in the consumer price index for 1973 and 1974 was largely due to worldwide inflation resulting from shortages of raw materials and foodstuffs which caused prices to increase.

Direction of Trade. Malaysia has discarded her policy of trading only with non-communist countries. The People's Republic of China is fast becoming an important supplier of food and foodstuffs, while at the same time increasing her imports of Malaysian rubber. Malaysia's export markets are concentrated in the developed countries of Japan, United States, European Economic Community, and Singapore. Since 1969, Japan has become the leading supplier of goods to Malaysia, and in 1974 Japan's share of Malaysia's total imports was estimated at 22%.

The following statistics, in Malaysian millions, record Malaysia's total exports and imports for the year ending 1973:

	Exports (FOB)	% Total Exports	Imports (CIF)	% Total Imports
Japan	1,334.2	18.0	1,337.3	23.0
United States	797.8	12.0	506.6	8.6
United Kingdom	583.0	8.0	604.1	10.2
West Germany & Netherlands	553.5	7.5	402.0	6.8
All South & East Asian countries (excluding Japan, Hong Kong & Singapore)	801.6	10.8	–	–
Eastern Europe	406.8	7.5	–	–
Australia	150.8	2.0	–	–
Singapore	1,714.7	23.3	463.4	7.9
USSR	–	–	16.9	0.3
ASEAN (excluding Singapore)	–	–	896.0	15.2
People's Republic of China	–	–	364.6	6.2
East Asian LDC* (excluding ASEAN countries, India, China & Burma)	–	–	961.6	16.3
Other	1,038.0	10.9	346.6	5.5
Total	7,380.4	100.0	5,899.1**	100.0

Note: *Less developed countries. **Excludes ships purchased by Malaysia's national shipping line valued at $112 million.

Composition of Trade. The composition of exports and imports in 1972 and 1973 indicates their nature. All statistics are in Malaysian millions.

	Gross Exports (FOB)			
	1972	% Total Exports	1973	% Total Exports
Agricultural	2,867.1	59.1	4,967.4	67.3
Rubber	1,297.8	26.8	2,507.7	34.0
Sawn logs	594.1	12.2	986.4	13.3
Sawn timber	277.9	5.7	559.7	7.6
Palm oil	361.2	7.4	465.6	6.3
Palm kernel oil	–	–	56.9	0.8
Fish	148.6	1.3	174.3	2.4
Pepper	61.1	0.3	69.1	0.9
Coconut oil	16.9	3.1	33.7	0.5
Other	109.5	2.3	114.0	1.5
Mineral	1,197.8	24.7	1,220.4	16.5
Tin	924.1	19.0	897.0	12.1
Petroleum	225.5	4.6	269.5	3.7
Iron ore	8.5	0.2	4.7	0.1
Other	39.7	0.9	49.2	0.6
Manufacturing	727.7	15.0	1,121.6	15.2
Unclassified	58.5	1.2	71.0	1.0
Total	4,851.1	100.0	7,380.4	100.0

Gross exports in 1974 rose by 38% to M$10,178 million as compared to a growth of 51.8% in 1973. This substantial increase in 1974, although at a slower rate than in 1973, was the result of worldwide shortages of industrial raw materials and the concomitant sharp price increases of Malaysia's major exports, rubber, tin and palm oil. The index of export unit value, 1970 = 100, which declined at an average rate of 6% in 1971 and 1972, rose by 37% in 1973. Export earnings from agricultural products rose by 72.3% in 1973 as against a decrease of 3.4% in 1972. Sawn logs and sawn timber, palm oil, coconut oil, pepper, and petroleum have emerged as major export commodities in recent years.

Of special importance was the strong growth in the export of manufactured products, which rose by more than 50% over 1972 to account for 15.2%' of total export earnings in 1973. This reflects a progressive shift from the export of raw materials to the export of semi-manufactured and manufactured goods. Major items were timber, rubber, petroleum products, textiles, plastics and electrical goods.

	Gross Imports (CIF)			
	1972	% Total Imports	1973	% Total Imports
Food, beverages & tobacco	890.5	19.6	1,173.0	20.8
Inedible crude materials	310.3	6.8	371.6	6.3
Mineral fuels	368.3	8.1	390.7	6.8
Oils & fats	22.3	0.5	26.7	0.5
Chemicals	377.2	8.3	522.0	8.8
Machinery & transport equipment	1,470.8	33.3	1,775.9	30.2
All manufacturing (excluding machinery & transport equipment)	1,047.6	23.4	1,570.5	26.6
Total	4,543.2	100.0	5,899.1*	100.0

Note: *Excludes ships purchased by Malaysia's national shipping line valued at $112 million.

Gross imports rose by 29.3% in 1973 as compared to a growth rate of only 5.9% in 1972. In value terms, gross imports in 1974 rose by 65%. Imports of consumer goods and of investment and intermediate products rose markedly, with the strongest increase being recorded in the import of intermediate goods amounting to $4,056 million or 40.5% of total imports. This reflects the strong demand for imported raw materials and component parts by manufacturing industries to sustain the rapid pace of industrialization. Japan, United States, EEC, Australia, ASEAN and People's Republic of China continued to be the major suppliers of goods to Malaysia in 1974, accounting for an estimated 80% of Malaysia's total imports. Japan is the main supplier of motor vehicles, machinery and manufactured goods, and in 1974 accounted for 22% of Malaysia's total imports. In the same year, the United States supplied approximately 10% of Malaysia's imports while the EEC countries accounted for approximately 21%.

Malaysia in Brief

MEMBERSHIP IN INTERNATIONAL ORGANIZATIONS

Malaysia is a member of the United Nations and participates in 12 of the 14 specialized agencies of that body. She is also a member of the British Commonwealth and the Colombo Plan. Malaysia aims at Southeast Asian neutrality and participates actively in meetings of nonaligned countries. She is a staunch supporter of Islam and attempts actively to establish international links with Muslim countries. The September 1975 Islamic conference was held in Kuala Lumpur, which is also the venue of international quran competitions.

Malaysia is a member of the following Asian development organizations: United Nations Asian and Pacific Council (ASPAC); European Commission for Asia and the Far East (ECAFE); Asian Development Bank (ADB); and Association of Southeast Asian Countries (ASEAN), which includes Singapore, Indonesia, Thailand and the Philippines.

CHAPTER 2

Investment Factors

- **ATTITUDE TOWARD FOREIGN INVESTMENT**
- **RECENT LEGISLATION AFFECTING FOREIGN INVESTMENT**
- **INVESTMENT INCENTIVES**
- **RESTRICTIONS ON FOREIGN INVESTMENT**
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- **MALAYSIAN STOCK EXCHANGE**

ATTITUDE TOWARD FOREIGN INVESTMENT

The need for accelerated economic and industrial development has become one of the major prongs in Malaysia's economic strategy. The Malaysian government recognizes the valuable contribution that can be made toward economic and industrial development by foreign investors. As a developing economy, Malaysia still lacks the necessary experience and know-how in many fields of industrial endeavor. Malaysia's general policy is to welcome foreign investors to set up mutually beneficial projects in the form of joint ventures with Malaysians that will assist in the balanced development of the country's resources.

To attract foreign investment into Malaysia, the government has planned the development of the necessary institutional and infrastructural facilities and an efficient public administrative machinery, a sound set of policy guidelines and an attractive package of fiscal and non-fiscal incentives.

Institutions Assisting Foreign Investments in Malaysia

—**Ministry of Trade and Industry.** All aspects of trade and industrial development are under the control of the Ministry of Trade and Industry. The two departments dealing with trade are the Domestic Trade Division, which is set up to protect newly-established domestic industries and safeguard consumers' interests, and the International Trade Division, which promotes the development of Malaysia's international trade. There is also a Trade Commissioners Service with offices in 14 foreign countries. The commissioners' role is to promote Malaysia's exports and to increase the flow of foreign investment and attract tourism to Malaysia.

—**Federal Industrial Development Authority (FIDA).** FIDA is a statutory, coordinating body that provides services specially geared to investors' needs.

Investors need deal only with this one agency to obtain information and advice on all aspects of their projects and for approval of their applications to set up factories in Malaysia. FIDA also recommends appropriate policy measures to the government, conducts preinvestment studies to identify products that can be profitably produced in

Malaysia, handles all inquiries from potential investors both local and foreign, evaluates applications from companies for pioneer status and other incentives, evaluates applications for tariff protection and import duty exemption, and provides technical advisory services to companies. FIDA has offices in New York, San Francisco, Paris, United Kingdom, Germany, and Japan.

—**Malaysian Industrial Development Finance Berhad (MIDF).** The activities of the MIDF in the field of financial and investment assistance are as follows:

- to provide medium and long-term loans
- to provide factory mortgage finance
- to provide hire-purchase finance
- underwriting
- advisory services

Many other statutory bodies have been established by the government to give assistance to investors.

—**Policies Concerning Foreign Investment.** The Malaysian government does not practice any form of discrimination when considering projects, and treats all foreign investors equally, regardless of their country of origin. Some government policies that are of interest to foreign investors follow:

—**Equity Participation.** Preference is given to projects that are on a joint-venture basis between Malaysians and foreigners, with majority ownership by Malaysians. The extent of foreign capital ownership allowed will depend on the nature of the project. If to a very large extent the project is dependent on the internal market or on exploiting natural resources, the government will then require such projects to have a substantial Malaysian majority ownership. If the project, however, is substantially export-oriented and is based primarily on imported components and parts, consideration can then be given to foreign majority ownership, and the extent of such foreign majority will depend on the merits of individual projects.

—**Employment Policy.** The government encourages maximum employment of local nationals. Foreign companies, however, are allowed to bring in needed foreign personnel to train Malaysians for appropriate posts. The policy is in fact designed so that Malaysians are eventually trained and employed at all levels of the corporate structure and in a manner that reflects the racial composition of the country. In addition, to safeguard their interests, foreign companies are also allowed certain key or top management posts to be permanently filled by their own personnel.

—**Exchange Control.** The present exchange control regime is very liberal and applies uniformly to transactions with all countries except Rhodesia, South Africa and Israel, against which special restrictive regulations apply. The main exchange control regulations of direct relevance to foreign investors are as follows:

1. *Direct and Portfolio Investments.* No exchange control permission is required for a nonresident to undertake direct or portfolio investments in Malaysia.

2. *General Payments.* Payments to countries outside Malaysia may be made in any foreign currency other than the currencies of Rhodesia, South Africa and Israel. Payments within Malaysia must be made in Malaysian dollars. All payments, including repatriation of capital, remittance of profits, technical assistance fees, etc., are freely allowed. No permission need be sought and no form need be completed for any payments under M$1,000. Where an individual payment in foreign currency exceeds the equivalent of M$1,000, an exchange control form must be completed and approved before payment can be effected. An authorized bank is permitted to approve the form without reference to the Controller of Foreign Exchange for any individual payment up to the equivalent amount of M$1 million. Approval by the Controller of Foreign Exchange must be obtained for all payments in excess of M$1 million. Such approval is readily given, if the applicant can satisfy the controller that payment is legitimately due and payable overseas.

3. *Export Proceeds.* An exchange control form must be completed for exports to any country outside Malaysia, the value of which is M$5,000 fob or over. This form must be approved by an authorized bank, on behalf of the exchange control, and submitted to the customs authorities before export is permitted. All export proceeds must be repatriated to Malaysia in the prescribed manner within the time of payment specified in the commercial contracts, which may not exceed, however, a maximum period of six months from the date of export.

4. *Inter-Company Accounts.* No exchange control permission is required for a company in Malaysia to maintain inter-company accounts with associated companies, branches or other companies outside Malaysia provided the following are excluded from the inter-company accounts:

a. proceeds from the export of Malaysian goods,
b. proceeds from loans extended to the Malaysian company.

Companies having inter-company accounts, however, are required to conduct them along the lines prescribed by the exchange control and to observe certain procedures in reporting and depositing returns with the control.

5. *Local Borrowings by Non-Resident Controlled Businesses Operating in Malaysia.* A non-resident controlled business in Malaysia may borrow up to M$500,000 from local financial institutions without the permission of the Controller of Foreign Exchange. For local borrowings in excess of M$500,000, permission from the Controller is required. As a rule, non-resident controlled businesses are permitted to borrow from local sources up to the maximum extent of their shareholders' funds (which is defined as paid-up capital plus accumulated reserves or less accumulated losses) and long-term loans obtained from abroad with an original maturity of at least five years. Reserves created from revaluation of property, plant or materials are not included in the computation. The overriding principle followed is that local credit facilities, up to the limit mentioned, will be made available for the genuine needs of a non-resident controlled business and that, at all times, such borrowings will be in keeping with the existing monetary policy. Local borrowings for the purchase of real property and for investment in stocks and shares are not permitted. The exchange control reviews annually the financial statements, audited accounts and cash flow projections submitted by non-resident controlled companies in order to determine their changing requirements for local credit each year.

As a matter of policy, the exchange control requires that at least half of the allowed local borrowings of a non-resident controlled business be obtained from locally-incorporated financial institutions.

6. *Borrowings from Abroad by Non-Residents.* Permission from the Controller of Foreign Exchange is required for all borrowings from abroad. Such permission is readily given where the funds are used for productive purposes and the terms and conditions of the foreign loans are reasonable. Remittance of interest on foreign loans and loan repayments must have exchange control approval and be made in accordance with any terms and conditions that may be stipulated by the control.

Royalties. The normal royalty or technical fee rate allowed goes up to a maximum of 2% of net sales. Under special circumstances, however, fees may exceed this limit if both the foreign licensor and the Malaysian licensee can substantiate the merits of their applications based, among other things, on the following factors:

- **a.** level of technology to be transferred to local manufacturing company,
- **b.** nature of project to be undertaken by local company,

c. technology to be transferred will be conducive to Malaysia's industrial development.

Down Payments. Malaysia does not encourage payment for transfer of technical know-how by means of a down payment, since such payments commit local companies even at the initial stages without any guarantee of successful commercial production. Payments for transfer of technical know-how must be related to production performance.

Promoted Industries. The Malaysian government gives foremost consideration to the promotion of the following types of industries:

- export-oriented industries
- labor-intensive industries
- resource-based industries with emphasis on timber, rubber, palm oil, and tin
- agro-based industries, especially the food industries, (cultivation and processing of soybean, maize, tapioca, sorghum, etc.)
- industries leading to technological development and improvement of skills among Malaysian workers
- industries able to integrate with existing industries

In addition to these industries, there is yet another industry that contributes to Malaysia in terms of invisible exports. That is the tourist industry which Malaysia feels has tremendous growth potential.

RECENT LEGISLATION AFFECTING FOREIGN INVESTMENT

1. Guidelines to Proposed Acquisition of Assets, Mergers and Takeovers. The guidelines issued by the Foreign Investments Committee (FIC) of the Economic Planning Unit under the Prime Minister's Department seek to regulate acquisition of assets or interests, mergers and takeovers by foreign parties. The proposed acquisition of any assets or interests, mergers or takeovers should:

a. result in a more balanced Malaysian participation in ownership and control;

b. lead directly or indirectly to increased economic benefits for the nation regarding such matters as Malaysian participation, particularly bumiputra (Malays and indigenous peoples) participation, income distribution, growth ownership and management, employment, exports, quality and range of products and services, economic diversification, processing and upgrading of local raw materials, training, research, and development;

c. not have adverse consequences in terms of national policies in such matters as defense, environmental protection or regional development.

Before the start of any negotiations, however, the interested parties would have to prove that the proposed acquisition of an asset, merger or takeover of a company or business would not be against the national interest. The preceding guidelines would then apply to any proposed acquisition:

a. by foreign interests of any substantial fixed assets in Malaysia.
b. that would result in ownership and control passing to foreign interests.
c. by any one foreign interest of 15% or more of the voting power or by foreign interests in the aggregate of 30% or more of the voting power of a Malaysian company or business.
d. of assets or interests exceeding in value the sum of $1 million by foreign parties.

The guidelines would also apply to control of Malaysian companies and businesses through any form of joint-venture agreements, management or technical assistance agreements or any other arrangements.

2. Industrial Coordination Act (ICA). The introduction of the ICA requires all companies seeking to establish new manufacturing projects or to expand existing enterprises in Malaysia, either with or without incentives, to apply to the government for approval for a license.

The Extent of Foreign Investment. The Malaysian economy is to a great extent owned and controlled by foreigners. In 1970 about 60% of the share capital of limited companies was owned by foreigners.

The following figures give an indication of foreign ownership of total share capital of limited companies by industry:

Industry	Percent
Agriculture and fishing	75
Mining and quarrying	72
Commerce	63
Manufacturing	59
Banking and insurance	52

This dominance of foreign ownership and control in the major sectors of the Malaysian economy can be attributed in part to the country's historical past.

INVESTMENT INCENTIVES

Malaysia welcomes foreign investment to the fullest extent and among the various measures taken by the government to encourage private investment in industry is the offer of attractive investment incentives.

Types of Incentives Available. Malaysia's investment incentives are designed to provide total or partial relief from the payment of income tax (40%) and development tax (5%) to companies investing in new enterprises or expanding existing ones. The relief is granted in various forms, and investors may select the types of tax incentives most beneficial to them. Basically, Malaysia offers six major forms of tax relief:

1. **Pioneer Status** which, depending on the level of the company's fixed capital investment and other criteria, allows total exemption from income tax and development tax for 2 to 8 years.

2. **Investment Tax Credit** which allows a company to deduct from its taxable income a sum at least equal to 25% of the sum spent on the fixed assets qualifying for that relief.

3. **Labor Utilization Relief** which provides for tax relief in the same way as that for pioneer status except that it is based on the number of full-time employees engaged.

4. **Export Incentive** which consists of three specially-designed incentives for companies exporting their Malaysian manufactured products.

5. **Site Incentive** which offers from 5 to 10 years' tax relief.

6. **Hotel Incentive.**

Tax Exemption for Pioneer Status Companies. Companies that intend to produce goods not already manufactured on a commercial scale suitable to the economic requirements of Malaysia or whose establishment is vital to the public interest may apply for pioneer status. Companies proposing to manufacture their products wholly for export may also apply.

Pioneer status companies are allowed an initial tax relief period of two years commencing from day of production. No minimum investment level is required for the initial two years of tax relief.

Investment Factors

Extension of tax relief will be granted according to the level of capital investment. Hence, the tax exemption period is:

Capital Investment (US$)	Tax Exemption Period (Yrs.)
Under 100,000	2
101,000-200,000	3
201,000-400,000	4
Over 400,000	5

In addition to the above, an extension of a further year of the tax relief period is granted for each of the following conditions, thus bringing the total exemption period to a maximum of 8 years:

- pioneer factory is located in a development area
- product/industry is priority product or industry
- specified percentage of Malaysian content is attained.

Apart from total relief from income tax payment (at the rate of 40% of taxable income), a company is exempt from the payment of the 5% development tax on the income from its pioneer enterprise. Dividends paid from the exempt income of a pioneer company are also exempted from any payment of tax in the hands of shareholders.

A pioneer company is also entitled to the initial and annual allowances on qualifying capital expenditure as allowed to non-pioneer companies, and the qualifying capital expenditure incurred during the tax relief period may be carried forward and treated as capital expenditure incurred on the day following the end of the tax relief period.

Losses incurred each year throughout the tax relief period are governed by special provisions whereby capital allowances are nationally calculated each year and cumulatively aggregated for the duration of the pioneer period. The total amount so derived is allowed as a deduction from assessable income in the first year of the post-pioneer period.

Losses incurred during the pioneer period may be carried forward and offset against assessable income in the post-pioneer period, but the amounts so carried forward must be net amounts, i.e., a balance left over after being offset against profits made during the pioneer period.

At the end of 1975, the total foreign investment in pioneer companies in Malaysia amounted to M$706.6 million.

Investment Tax Credit (ITC). The ITC may be granted to companies not enjoying pioneer status. It is thus an alternative incentive. The amount of tax credit allowed will not be less than 25% of the total capital expenditure incurred by the project. It is given for the year of assessment in the base period in which the expenditure was incurred and for not more than 5 years after the beginning of the base period in which the project was approved.

Where the ITC is given to a company for a year of assessment, so much of the adjusted income of the company for the base period for that year as is equal to the amount of the credit (or to the aggregate amount of any such credits, as the case may be) shall be exempt from tax for that year of assessment.

Where effect cannot be given or cannot be given in full to any credits which the company is entitled to, then, so much of the credits in question that cannot be given for that year shall be deemed to be a credit to be allowed the company for the first subsequent year of assessment for the base period for which there is adjusted income from that business and so on for subsequent years of assessment until the company has received the whole of the credits to which it is entitled.

The credit will be increased by an additional 5% of the expenditure for each of the following conditions fulfilled by the company:

- factory is located in a development area
- it produces a priority product
- specified percentage of Malaysian content is attained.

The benefit amounts to an exemption of income tax on profits equal to the tax credit given (i.e., from 25% ITC to 40% ITC). Where income in the first year of assessment is lower than the credit granted, the excess of credit over income, representing unutilized credit, may be carried forward for deduction against income earned in the following and subsequent years until the whole amount of the credit is used.

This incentive is of particular benefit to projects that have high investment levels and long gestation periods before profits become manifest.

Labor Utilization Relief. The labor utilization relief (an alternative to pioneer status or ITC) provides for exemption of income tax in the same way as that of pioneer companies except that in this case the granting of such exemption is based upon the number of full-time employees engaged in the project instead of on the amount of capital expenditure incurred.

Under the labor utilization relief incentive, the tax exemption period and the qualifying requirements are:

Qualifying Employment (No. of Employees)	Tax Exemption Period (Years)
51-100	2
101-200	3
201-350	4
Over 350	5

In addition, an extension of a further year of tax relief is granted for each of the following conditions:

- company is located in a development area
- it produces a priority product
- specified percentage of Malaysian content is attained.

This investment incentive is designed to encourage industrial ventures which will generate greater employment opportunities in the country.

Export Incentive. Three kinds of export incentives may be granted to companies that export their Malaysian manufactured products:

1. Export Allowance. The amount of the allowance is 5 cents for every dollar of the increase in the export sales of a taxpayer, such increase being the excess of his total export sales for the year in question over his average annual export sales for the five or four immediately preceding years, as the case may be. Where there were export sales in only one, two or three immediately preceding years, the average annual export will be one third of the total export sales for that one, two or three years. Where there are no export sales in the immediately preceding years, the export allowance will be 5 cents of every dollar of his total export sales for the year.

To encourage the greater use of domestic components and materials, the allowance is increased to 8 cents for every dollar of export of products incorporating not less than 50% of domestic materials. This allowance applies only to industrial products.

The formula to use for computing export allowance is:

a. Export allowance = $(x - y) \times 5\%$ where x = export of goods in current year, y = average export of 5 immediately preceding years.
b. If local content exceeds 50%, the export allowance = $(x - y) \times 8\%$.

2. Accelerated Depreciation Allowance. Resident companies, if they export 20% (by value) of their total production and if they incur qualifying plant expenditure for the purpose of modernizing the company's production techniques or to set up a modernized factory, are entitled to an accelerated depreciation allowance of 40% per year in addition to the initial allowance of 20%. Under this concession, more than 90% of eligible capital expenditure can be written off in approximately 4 years as against about 20 years under the normal rate.

3. Double Deduction for Promotion. These are deductions for expenses incurred for the purpose of seeking opportunities for export of products manufactured in Malaysia. Pioneer companies have a special privilege. All qualifying expenses which would have been allowed under the schedule and which were incurred during a pioneer company's tax relief period can be carried forward and allowed as a deduction in the post-pioneer period. The same privilege is extended to companies enjoying labor utilization relief. The expenses that qualify for this deduction are:

- overseas advertising
- supply of free samples abroad
- export market research
- preparation for overseas tenders
- negotiation and conclusion of contracts abroad
- supply of technical information abroad

Site Incentive. Designed to encourage the dispersal of industries away from the existing industrial concentrations in the urban areas, the government has introduced a site incentive. An approved company locating its plant in an area specified by the government as a site incentive area may be granted a maximum tax relief of up to 10 years.

The qualifying criteria and number of years of tax relief are as follows:

Qualifying Level of Fixed Capital Expenditure/Employment	Tax Exemption Period (Years)
Fixed capital expenditure–under M$250,000 or employment–under 100	5
Fixed capital expenditure–M$251,000 to 500,000 or employment–101 to 200	6
Fixed capital expenditure–M$501,000 to 1,000,000 or employment–201 to 350	7
Fixed capital expenditure–over M$1,000,000 or employment–over 350	8
Priority product	1
Malaysian content	1
Years of tax relief	10

Hotel Incentive. To encourage the building of hotels/motels and tourist complexes, the government has devised new incentives. The type of incentives offered and the extent of such incentives, however, will depend on the location of the approved hotels.

Hotels located in less developed areas will qualify for more favorable incentives. The incentives will be given for the establishment of new hotels and also for the expansion and modernization of an existing hotel that meets standards of luxury, first-class or medium-class hotel.

The following incentives will be made available for approved hotels:

a. Pioneer status or
b. Annual abatement of a specified percentage of chargeable income for a period of 12 years. Percentage of abatement, ranging from 15%-30%, will vary according to location of hotel.
c. Accelerated depreciation allowance for qualifying expenditure on plant and machinery.
d. Industrial building allowance for hotels outside the Kuala Lumpur district and Penang Island.

Increased Capital Allowance (ICA). In order to encourage existing factories to modernize their production techniques and to promote construction of modern factories, the government has also designed a tax incentive called 'increased capital allowance' which can be granted to projects the government deems to be desirable in the national interest but which cannot be granted tax exemption either under pioneer status, labor utilization relief or investment tax credit. The increased capital allowance applies to qualifying building and plant expenditure incurred in updating production techniques in an existing factory or in setting up a modern factory by a resident company.

The ICA is calculated as follows:

—for qualifying plant expenditure, the annual allowance is 40%;
—for qualifying building expenditure incurred on the construction of a building, the ICA is 3% of that expenditure;
—for qualifying building expenditure incurred on the purchase of a building, the percentage allowed is multiplied by one and a half of the permitted fraction.

Other Incentives may be summarized as follows:

—Import duty exemption for machinery and in some cases of raw materials used in manufacturing.
—Double taxation agreements between Malaysia and the United Kingdom, Singapore, Japan, Denmark, Norway, Sweden, Sri Lanka, and Belgium have been concluded. Malaysia has drafted double taxation agreements with the governments of West Germany, France, Switzerland, India, and New Zealand and is prepared to negotiate double taxation agreements with other countries.
—Tariff protection for deserving local industries.
—Protection against dumping by foreign exporters.
—Foreign investment guarantee agreements (against expropriation) between Malaysia and the United States, Netherlands and West

Germany. Malaysia is prepared to sign similar investment guarantee agreements with other countries.
- Malaysia is a member of the UN sponsored Convention on the Settlement of Investment Disputes, thus assuring foreign investors of international arbitration in cases of legal disputes.
- Preferential government buying of locally manufactured products. All government ministries, departments and quasi-government bodies are required to purchase locally manufactured products provided their quality is acceptable and their prices do not exceed those of equivalent imported goods by 10%.
- *Industrial estate. Fully developed industrial sites are available at* reasonable prices. All services required by industrialists are provided.
- Loan facilities for industry through the Malaysian Industrial Development Finance (MIDF) which also underwrites share issues.
- The provision of standard factory units by Malaysian Industrial Estates Ltd. (MIEL) for immediate occupation by industrialists.
- Free Trade Zones (FTZ) and Licensed Manufacturing Warehouses (LMW) will allow export-oriented industries duty free import and export of machinery, raw materials and components (required in the manufacturing process) and finished products with a minimum of custom formalities.

RESTRICTIONS ON FOREIGN INVESTMENT

Foreign ownership is restricted or forbidden in the following industries:

Aviation. Malaysia's only airline, Malaysian Airline System (MAS), is government-owned. No other airline is allowed to operate domestic routes. The state government of Sabah has been granted approval to operate a domestic airline servicing that state only.

Banking. The Banking Act 1973 provides for licensing and regulation of banking business. In line with government policy of increasing local equity participation, licenses will not be granted if 50% or more of the company's capital is owned or managed by a foreign government. Foreign banks are also required to have net working funds of M$2 million. Net working funds here refer to the net liabilities of a foreign bank's branches and offices in Malaysia computed periodically in the manner prescribed by the Central Bank of Malaysia.

Petroleum Mining. Sole petroleum rights are vested in Petronas, a government operation. Joint ventures with foreign oil companies are on terms prescribed by the corporation.

FOREIGN TRADE REGULATIONS

Malaysian traders are free to import from and export to all friendly countries, regardless of their socio-political systems. Within this liberal framework, Malaysia has always advocated a progressive liberalization of world trade and is a firm supporter of reduction or, where possible, elimination of tariff barriers and discriminatory non-tariff barriers.

Import Tariff. Malaysia uses the Brussels nomenclature for tariff purposes. A wide range of import duties is levied on most imports, and these are either on an ad valorem basis or a specific tax is based on weight or piece rate or a combination of both.

All imports are subject to the same tariffs, regardless of country of origin, with the exception of those that have been accorded preferential tariff. Imports granted preferential tariff are those originating in Commonwealth countries, and they are limited to commodities such as dairy products, skins and hides. A preference margin of about 10% is usually accorded. However, Malaysia has been gradually phasing out preference tariffs accorded to Commonwealth countries, especially after Britain's entry into the Common Market.

Temporary Protection. Temporary protection is accorded to certain industries and to those designated as *infant industries.* These are given temporary protection by quantitative restriction or quota on relevant imports. This protection is subject to periodic review, however, and the normal practice is to remove the quantitative restriction after a period of time, and replace it with an appropriate level of protective tariff.

Bylaw Admissions. Certain goods have been admitted into the country duty free or at concessional rates when local supply could not meet demand. In Malaysia, this applied to the import of sugar in 1974, when sugar prices were considered excessive, and to the import of mandarin oranges for the Chinese New Year. Applications for bylaw admission may be made by the importer.

Dumping Duties. Dumping duties may be imposed on goods sold to a Malaysian importer at a price below that of the market in the country of origin. Dumping duties have been applied to Japanese products in the past.

Tariff Protection. Tariff protection and assistance are granted by the government as part of its policy of encouraging and promoting industrialization in Malaysia. They include import quota restriction, exemption from import duty and surtax on raw materials and component parts and machineries and refund of import duty and surtax paid. Applications for tariff assistance may be submitted to the Ministry of Finance.

Tariff assistance may be granted for the establishing of a manufacturing concern and for industries manufacturing finished products for the domestic and/or export markets.

Excise Duties. Excise duties are levied on imports including tobacco and liquor. The 1975 budget, however, abolished the excise duty on imported condensed milk, plywood and veneer. Excise duties also apply to domestically-produced products.

Free Ports. At present, Malaysia has no free ports. Penang, once a free port, now enjoys only a restricted free-port status with a 2% surcharge on imported goods excepting certain commodities.

Refunds on Import Duties Paid. Refunds on duties paid may be granted for imported components of finished products which are later exported.

Surtax on Raw Materials and Component Parts. A surtax of 4% is levied on the value of all imported goods and 2% on raw materials and components. Companies may apply for exemption from surtax on raw materials and component parts used in the production of a commodity for both the domestic and foreign markets.

Trade Agreements. Malaysia has so far concluded trade agreements with several countries including Australia, Japan, United Arab Republic, USSR, and several East European nations. The primary objective of these agreements is to strengthen, facilitate and expand trade relations with the countries concerned. Except in the case of trade agreements concluded with Australia and New Zealand that provide for reciprocal tariff concessions, all other agreements provide for mutual most-favored-nation treatment between the contracting parties regarding such trade matters as customs duties, taxes and other charges and rules and formalities affecting imports and exports.

FINANCIAL AND CREDIT INSTITUTIONS

Bank Negara Malaysia is the Central Bank of Malaysia, and it was established in 1959 under the Central Bank of Malaysia Ordinance 1958. The principal objectives of the bank are to issue currency and to safeguard the value of that currency, to protect reserves, to act as banker and financial adviser to the government, to promote monetary stability and a sound financial structure, and to influence the credit situation to the country's advantage. It also acts as lender of last resort to commercial banks, discounting and rediscounting bills, operates in foreign exchange and administers exchange control regulations. Through its monetary and fiscal policies, the Central Bank attempts to influence the credit situation in the country.

Protection of Depositors. Under the Banking Ordinance 1958 (now replaced by the Banking Act 1973), the Central Bank is the supervisor of all commercial banks. A banking license may be revoked by the Minister of Finance, on the recommendation of the Central Bank, if a bank operates its business in a manner detrimental to the interest of its depositors or has insufficient assets to cover its liabilities. A licensed bank is required to provide a written declaration of any alteration in its constitution to the Minister of Finance, maintain a reserve fund, present an audited balance sheet and statement regularly to the Central Bank, list its assets and liabilities, provide analysis of loans and advances, and display its annual financial statements. Every licensed bank is empowered to appoint an auditor approved by the Minister. The Minister of Finance is empowered to employ an auditor if a bank fails to do so. In the case of advances for shares, the Central Bank is empowered to prescribe the margin between commercial bank advances for the purchase or holding of shares and the market value of such shares. This provides the Central Bank with an effective instrument to discourage excessive speculation in shares. To discourage undue speculation in land, the Central Bank is empowered to impose a ceiling of up to 30% of the proportion of advances that a bank may grant for the purchase and development of immovable property. This ceiling can be raised to 60% for banks whose main activity is the granting of housing loans.

Banks are required to obtain written consent from the Central Bank for the establishing of a new branch or office. Such written consent is also necessary for the establishment of a branch outside Malaysia. Under the Borrowing Companies Act 1969, the Central Bank is empowered to regulate and control the activities of borrowing companies (finance companies) with a view to safeguarding the interests of depositors.

Discount Houses. The first discount house was established in 1963 and reflected the conscious effort on the part of the Central Bank to foster the development of a money market in the country. A second discount house was established in October 1971. By accepting short-term deposits and investing in government treasury bills and securities, discount houses provide a ready avenue for commercial banks and other financial institutions, public authorities and private individuals investing essentially short-term money.

Commercial Banks. Malaysia is adequately served by a nationwide system of commercial banks, 17 of which are incorporated locally and 18 in foreign countries. They represent the single largest source of domestic finance in the country. The role of commercial banks has evolved from the traditional one of providing deposit facilities and using such deposit funds for the financing of trade and commerce to that of being a prime motivator in the economic development of the country. They provide loans and advances, discount bills, make investments in treasury bills and government securities, and furnish counsel on investments.

Merchant Banks. Merchant banking is a new development in Malaysia, but it is expected to contribute significantly to the modernization of the financial sector as the need for increased financial, advisory and better portfolio management increases. The number of merchant banks in October 1974 totaled 8, with a paid-up capital of M$33.2 million, 56% of which was held by Malaysian interests. The law requires that the paid-up capital of a merchant bank be at least M$1 million. Merchant banks in Malaysia are not permitted to compete with commercial banks in accepting demand deposits from the public, but they may accept not less than M$250,000 per deposit from banks, borrowing companies and other approved financial institutions. Dealings in foreign exchange and bullion are currently disallowed. Apart from participating in the short-term money and capital markets such as bridging finance, underwriting of share issues, leasing, and all aspects of corporate financing, merchant banks also provide advisory and portfolio management services.

Borrowing Companies. Borrowing companies in Malaysia, licensed under the Borrowing Companies Act 1969, are finance companies that accept deposits from more than 10 persons. They constitute the second most important source of private credit in Malaysia. They are engaged in hire-purchase transactions and commercial, industrial and residential construction leasing. Their high level of liquidity enables them to extend loans to the private sector. Total loans by borrowing companies at the end of 1973 stood at M$33.2 million. They included housing loans, hire-purchase finance, leasing finance, and other.

Investment Factors

Insurance Companies. Most of the insurance companies' funds are invested in approved Malaysian assets. They include a required minimum investment of 20% in government securities of treasury bills. In 1973, the first company specializing in reinsurance business was established in Malaysia. The company hopes to stem the flow of reinsurance premiums abroad and also to obtain the approval of other reinsurance countries in the ASEAN area in spreading the risks among themselves.

Housing Credit Institutions. The major housing credit institutions in Malaysia are the Malaysia Building Society Berhad (MBSB), the Borneo Housing Mortgage Finance Berhad (BHMF) and the various Housing Cooperative Societies. Outstanding mortgage loans at the end of 1973 stood at M$296 million. These institutions, however, have been faced with severe competition from commercial banks, borrowing companies and the Housing Loans Division of the Treasury.

Urban Credit Cooperative Societies. The activities of both urban and rural credit cooperative societies in Malaysia are coordinated by the National Cooperative Union, or Angkasa. The urban credit cooperative societies represent an important source of credit for the lower middle class and the poor of urban society. These cooperatives also include thrift and loan associations, employee credit societies and investment associations. Most of the societies obtain funds for their undertakings from the Cooperative Central Bank, which at the end of 1973 had total resources in the amount of M$25 million.

Rural Credit Institutions. The Agricultural Bank of Malaysia, or Bank Pertanian, is the principal source of agricultural credit. All farmers, whether members or nonmembers of cooperative societies or farmers' associations, are eligible for loans from the Agricultural Bank. The bank also gives hire-purchase credit, loans for agri-business and long-term financing of large-scale agricultural development projects.

In 1973, the Farmers' Organization Authority was established to coordinate the activities of farmers' associations, agro-based rural credit cooperative societies and government institutions engaged in financing and promoting agricultural development. At the apex of the rural credit cooperative societies is Bank Kerjasama which specializes in medium and long-term loans.

Industrial Finance Institutions. The three major industrial development institutions, namely, Malaysian Industrial Development Finance Berhad (MIDF), Borneo Development Corporation (BDC) and Malaysian Industrial Estates Sendirian Berhad (MIEL), are the main sources of medium and long-term industrial financing. Most of the loans in recent years have not exceeded M$150,000 indicating that emphasis has been on financing small-scale industries.

Credit Guarantee Corporation. In 1972, the Credit Guarantee Corporation Malaysia Berhad was incorporated under the Companies Act 1965 with the objective of enabling small enterprises to obtain credit from commercial banks. The corporation has a paid-up capital of M$2.5 million of which 20% was subscribed by the Central Bank of Malaysia and 80% by the commercial banks. The corporation launched its Credit Guarantee Scheme in 1973 to provide guarantee cover to the commercial banks for loans extended to small-scale enterprises in the agricultural, commercial and industrial sectors of the economy.

Provident and Pension Funds. These funds continue to be the main source of long-term finance for the government's development program. The Employees' Provident Fund is the largest single institutional holder of the government's long-term domestic debt. More than 90% of the fund's total investments of M$3,116 million at the end of 1973 were in the form of government securities. The fund's investment in the private sector was relatively small and was comprised mainly of loans to two major housing societies.

Foreign Banks. At the end of 1972, total deposits by foreign banks accounted for 58.2% of total deposits with commercial banks. By 1973, seven foreign banks had established representative offices in Kuala Lumpur. A foreign bank intending to conduct business in Malaysia must have a paid-up capital of not less than M$5 million and, when in operation, it is required to hold net assets in Malaysia of not less than M$2 million. Foreign banks carry on the traditional role of foreign trade financing, providing capital for industry and for production of primary commodities and investing in government securities and treasury bills.

MALAYSIAN STOCK EXCHANGE

Initially, Malaysia and Singapore operated a common stock exchange, but after May 1973, following the Malaysian government's decision to terminate all currency exchange arrangements with Singapore, a separate Malaysian stock exchange called the Kuala Lumpur Stock Exchange Berhad, a private limited company, was formed in July 1973. Malaysian investors, however, may continue to invest not only in shares of Malaysian incorporated companies but also in shares of companies incorporated in Singapore, Hong Kong, Britain, and elsewhere. Securities listed on Malaysia's stock exchange are also listed on Singapore's exchange except that in both trading rooms securities find their own levels separately.

Listing Requirements. Companies listed on the exchange fulfill minimum capital requirements of M$4 million, and at least M$750,000 or 25% of issued capital (whichever is more) must be distributed among not more than 500 shareholders. The number of companies listed on the exchange increased from 191 at the end of 1965 to 263 in June 1974. Of these, 161 were incorporated in Malaysia. The securities listed on the exchange include those issued by companies incorporated in Malaysia, Singapore, the United Kingdom, and Hong Kong and bonds issued by the central, state and local governments. Dealings are also permitted in treasury bills, short-term securities of the Malaysian and Singapore governments, units of unit trusts managed in Malaysia and Singapore, and securities quoted on other recognized stock exchanges.

The expansion of listed companies reflects a greater investment of private savings in local projects and also acts as a check on speculative pressures, arising from a scarcity of marketable scrips. For the financial period from January 1, 1973 to June 30, 1974, the turnover was 454.8 million units and totaled M$1,126 million. Industrial, commercial and financial companies have shown the strongest growth, as two-thirds of these companies, mostly engaged in manufacturing, were incorporated in Malaysia at the end of 1972.

Management of the Exchange. The management and regulation of the affairs of the exchange are in the hands of the committee of the stock exchange. In 1974, the stock exchange adopted new rules and bylaws to strengthen its trading machinery against abuse, imposed stricter listing requirements for companies, appointed a full-time professional manager to supervise dealings, and established, for greater financial protection of investors, a Fidelity Guarantee Fund to which all member brokers are obliged to contribute. In 1970, a number of measures were introduced. These included possible action on designated securities, i.e., securities subject to share manipulation, surprise audits on brokers and raising of brokerage fees. In 1971, the listing requirements for companies were tightened further, with companies seeking listing having to disclose to the exchange additional information on their financial and business affairs. The exchange also adopted recently the procedure of questioning companies on extraordinary short-term movements in prices and turnover of shares. In 1973, the government introduced the Securities Industry Bill to protect investors and curb excessive speculation on the stock exchange.

CHAPTER 3

Labor Conditions

- LABOR FORCE
- TERMS AND CONDITIONS OF EMPLOYMENT
- EMPLOYMENT OF FOREIGNERS
- FRINGE BENEFITS AND SOCIAL SECURITY
- LABOR/MANAGEMENT RELATIONS

LABOR FORCE

Employment Level. At the end of 1974, Malaysia's labor force was estimated at 3.8 million or 34.5% of a population of approximately 11 million. By 1975 that figure had increased to 4.3 million or about 36% of a total population of just under 12 million. Women accounted for 36.5% of this labor force, and their participation is expected to increase further as their level of education rises and as more married women enter the job market. Professional and semi-professional personnel are available from the five local universities and various colleges, thus assuring commerce and industry of more than competent manpower.

The rate of unemployment for 1975 as a whole was not markedly different from the 7% of the labor force in 1973.

Labor Market. During the period 1971 through 1973, a total of 348,000 new jobs was created, indicating an average employment growth of 3.4%. Agriculture's share of new jobs for that period was 28%, and although agriculture still accounts for 50% of total employment, this was a decline from its previous total share in 1970. Between 1971 and 1973, manufacturing generated nearly 100,000 new jobs, ranking it second in annual growth, next only to banking, insurance, and real estate. This significant increase was brought about by rapid industrial development resulting from the government's promotional efforts coupled with Malaysia's attractive investment climate. A number of labor-intensive and export-oriented industries such as electronics, textiles and wood products were established. The construction boom, which began in mid-1971, greatly accelerated industrial, commercial and residential construction and gave impetus to the growth of related industries producing the essential raw materials.

In 1974 and 1975, the employment growth rate declined steadily to 3% and 1% respectively, with an average of 128,000 and 35,000 new jobs being created for those years. Output growth in rubber and most other sectors of the economy slowed down during that period due to the uncertainty of the economic outlook.

Although unemployment is low in rural areas, underemployment continues to be a major problem. Underemployment, including seasonal unemployment in fishing and agriculture, gives rise to low productivity and low incomes. Thus, the employment policy in Malaysia stresses not only the creation of jobs, but also the harnessing of the full productivity of the labor force.

Composition of Labor Force. Being a multi-racial society, Malaysia's large literate labor force is composed of Malays, Chinese, Indians, and others. Chinese dominate the mining and manufacturing industries where production is approximately double or triple that of the agricultural sector. Agriculture, employing mainly Malays, has the lowest per capita output at present.

The government's aim to alter the existing employment pattern involves the creation of opportunities for Malays in all sectors of the economy, particularly in commerce and manufacturing where production and growth are expected to be the fastest. Encouragement is also given to the promoting of joint ventures between Malays and other races. The government hopes by these measures to achieve its objective of a 50% employment average of Malays in all sectors of the economy by 1990.

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Ordinance 1955 covers all manual and almost all non-manual workers earning M$500 or less a month, but excludes those employed in a managerial capacity.

Working Hours. The normal working day consists of eight hours with a break, or six hours without a break. The maximum number of working hours may not exceed 48 a week. Overtime work is restricted to 32 hours a month per worker, and any excess time must have the approval of the Ministry of Labor and Manpower. Women may be employed up to 10:00 p.m., but from 10:00 p.m. to 5:00 a.m. they must have the approval of the Ministry of Labor and Manpower.

Wage Rates. Minimum wages apply only to the retail, hotel, catering, and cinema trades and to certain port workers. There is no minimum wage rate for workers in the manufacturing and processing industries in Malaysia. Wage rates are determined either through individual contracts or collective agreements and vary depending on the industry, firm and location.

Low-cost labor in Malaysia is readily obtainable. The wage rate for an industrial worker starts at M$3 a day and up depending on the industry and the level of skill. Wages may be paid on an hourly, daily, monthly, or piece-rate basis. In government departments and in statutory bodies, salaries and salary scales are determined by the Public Services Commission which may periodically set up commissions to review salaries in accord with prevailing economic conditions and comparative wage rates in the private sector.

Salary and wage rates for new graduates from the various colleges and universities vary between M$560 and M$750 per month in government departments, and are slightly higher in statutory bodies. Wages in the public sector serve as a guideline only for wages in the private sector, which may then be higher or lower. Salaries of professionals vary between M$750 and M$1,500 a month, and top management personnel are paid between M$2,000 and M$5,000 a month.

Overtime Pay. The overtime rate is one and a half times the normal rate and a maximum of 32 overtime hours a month per worker is allowed. Overtime rates are available to shift workers for any week exceeding 48 hours on an average over a three-week period.

Equal Pay for Women. In the public sector and to a smaller extent in the private sector also, equal pay for equal work applies to both men and women. Sexual discrimination, however, is still prevalent in the recruiting of staff.

Sick Leave. A maximum of 14 days a year is granted if no hospitalization is required, and 60 days if hospitalization is required.

Maternity Leave. Maternity leave is granted for a period of 30 days both before and after confinement. A maternity allowance of M$3 a day is payable throughout the 60-day period.

Holidays and Vacation. Every worker is entitled to one (unpaid) rest day a week and to five paid holidays selected from the list of public holidays. In addition, a worker is also entitled to seven paid vacation days after one year but less than 5 years of continuous service with the same firm, and to 14 days after 5 years.

EMPLOYMENT OF FOREIGNERS

Under the Employment (Restriction) Act of 1968, non-citizens may be employed provided an employment permit is obtained from the Ministry of Labor and Manpower. The government allows the entry of foreign technical and skilled personnel for employment in industries, especially if such personnel possess skills unavailable among the local population. The understanding is, however, that training programs will be held so that Malaysians may acquire the necessary skills and know-how to assume, within a period of time, some of the positions held by such personnel. In some foreign-owned firms, expatriates are permitted to hold a few key positions.

All applications for employment permits must be made through the prospective employer before arrival in the country. Applicants must have sponsors in Malaysia who will be responsible for their support and repatriation, if necessary.

FRINGE BENEFITS AND SOCIAL SECURITY

Employees' Provident Fund. The Employees' Provident Fund Ordinance 1951 requires that both employers and employees contribute to the fund for the benefit of employees. Compulsory contribution by employees is 6% and by the employer 7% of the employee's wages, reaching 15% on the employer's part in some government statutory corporations. An employee is allowed to withdraw the benefits that have accrued to him from the fund upon retirement or, in the event of total disability or death, the employee's family is allowed to withdraw said benefits.

Workmen's Compensation. The Workmen's Compensation Ordinance 1952 covers compensation to workmen not covered by Employees' Social Security Act 1969 for personal injury caused by accident arising out of and in the course of employment and for occupational diseases. This type of compensation is covered by statutory requirements. The amount of payable compensation is $7,200 or 36 months' earnings, whichever is less, in the event of death; $9,000 or 48 months' earnings, whichever is less, for total disability; and two-thirds of monthly earnings or $130 each month, whichever is less, for temporary disability.

The amount of compensation awarded is less for workers under 18 years of age. All such claims are handled by labor offices located in the main cities. Any disputes over claims may be referred to the arbitrator, who is usually the president of the Sessions Court. Employers are compelled by law to insure employees against injuries sustained in the course of work.

Statutory law also contains requirements for safeguarding the health and welfare of workers employed in factories and other places where power-driven machinery is used. Mandatory guards and safety devices must conform with ILO regulations modified to suit local conditions.

Special equipment must be certified by the Ministry of Labor and Manpower as safe for use prior to installation. All factories and machines are subject to inspection every 15 months by officers of the Ministry. Persons operating special-type equipment must obtain a certificate of competency from the Ministry.

Social Security Organization. Social Security is covered by statutory requirements contained in the Employees' Social Security Act 1969.

The Employment Injuries Scheme covers all employees earning M$500 a month or less and all industries with five or more employees. The Employment Injuries Scheme is an insurance plan that provides for medical benefits, periodical payments and other benefits to workers and dependents in the event of injury during the course of employment. Payments are made from a fund managed by the Social Security Organization (SOCSO) to which both employers and employees must each contribute 1% of the worker's monthly wages.

At the beginning of 1974, the Invalid Pension Scheme was launched in all SOCSO centers in Peninsular West Malaysia. This plan provides workers with insurance not only against injury and disease arising from the nature of the work, but also against invalidism from any cause whatsoever. Contribution is from both employers and employees and is set at the rate of ½% each of the worker's monthly wages. The SOCSO scheme does not cover the majority of the rubber estates and tin mines which lie outside SOCSO centers, although their participation in the plan is being studied. The feasibility of introducing sickness and maternity benefits is also being studied.

Superannuation Schemes. Employees in the public sector who do not wish to contribute to the Provident Fund may opt for the Pension Scheme which provides for a partial lump sum payment upon retirement and monthly payments thereafter for life. Some private companies provide a superannuation scheme which also allows for a minimum payment to employees in case of termination of employment before due retirement.

Other Benefits. In Malaysia, fringe benefits vary widely between companies and industries, and they depend for the most part on the generosity of the individual companies. Medical benefits are supplied by the public sector and by almost all companies in the private sector. Other benefits include traveling and cost-of-living allowances, company cars, bonus payments, life insurance, and housing benefits. In regard to the latter, if an employer chooses to house his workers in the place of employment, he is required to comply with the provisions laid out under the Workers' (Minimum Standards of Housing) Act 1966 regarding the site, size and design of the houses.

LABOR/MANAGEMENT RELATIONS

Unions. About 25% of all wage earners in Malaysia are organized under trade unions. The rubber and tin-mining industries provide the bulk of union members. All trade unions are required under the law to be registered with the Registrar of Trade Unions and have to comply with the requirements of the Trade Union Ordinance. Procedures exist for the formal recognition of trade unions by employers, and recognition is normally based on the representative position of the union concerned. Available data indicate that there are 330 registered trade unions with a total membership of 400,493 as of December 1974. Only two of the unions have over 10,000 members.

Employers' Organizations. Employers' associations are also organized to help employers take part in collective bargaining and to represent their interests in labor/management disputes. The majority of members are from the agricultural and mining industries.

Under the Industrial Relations Act 1967, trade unions and employers are free to enter into collective bargaining on matters concerning wages and terms of employment and to negotiate for the settlement of disputes on a voluntary basis.

A trade union is not allowed to stage a strike unless it has the consent of two-thirds of its members which has been obtained by secret ballot. From January to September 1974, there were 68 strikes, 79% of which were caused by dissatisfaction with employment conditions such as wages and special relief allowances, the latter having been introduced to help employees over the economic hardships caused by inflation.

Under the Industrial Relations Act, strikes and lockouts are prohibited on three grounds:

1. After a dispute has been referred to the Industrial Court.

2. Regarding any matters covered by an award of the Industrial Court or a collective agreement registered with the Industrial Court.

3. Regarding management functions such as promotion, transfer, recruitment, dismissal, assignment, or allocation of duties.

Conciliation. Where parties in a dispute fail to reach a settlement, such disputes may be reported to the Ministry of Labor and Manpower which will provide conciliation services. Most disputes are resolved amicably by voluntary negotiations with or without recourse to mediation.

Arbitration. Disputes which cannot be resolved through negotiations or conciliatory measures may be referred by the Ministry of Labor and Manpower to the Industrial Court for settlement.

The Industrial Court. This court consists of a permanent president, one independent individual, one employer's representative, and one worker's representative. Awards handed down by the court are final and legally binding.

CHAPTER 4

Business Practices and Information

- INFORMATION FOR BUSINESSMEN
- ENTRY REQUIREMENTS
- TRANSPORTATION
- COMMUNICATIONS
- BUSINESS HOURS
- PUBLIC HOLIDAYS

INFORMATION FOR BUSINESSMEN

Business practices and customs in Malaysia are much the same as those in the United Kingdom and the United States. British influence is strongly prevalent as Malaysia was administered by the British colonial government for over a century and a half. At present, the British system forms the basis of the country's administrative and institutional organizations. Moreover, a large percentage of business is owned and operated by British, American and other foreign interests. These foreign-controlled firms have invariably adopted their own business practices and customs. Even local merchants have a tendency to emulate Western ways. Therefore, the visiting businessman will not find himself on totally unfamiliar ground when dealing with his Malaysian counterpart. He will find him friendly and extremely polite with a keen sense of business and interest in world events.

The exchange of business cards is not generalized although the offering of a card is usually appreciated.

Travel Months. Business is conducted all year round. However, the traveler should bear in mind that the rainy season in West Malyasia is from November to March and in East Malaysia from May to September.

Hotels and Restaurants. There are several excellent hotels and many resorts with hotels and golf courses of international standard. Adequate accommodations are available from US$12 to US$23 a day, excluding meals. The usual amenities found in American and European hotels exist. The variety of food obtainable in Malaysia is almost unparalleled, and there are innumerable restaurants where exotic Asian dishes can be enjoyed in charming Oriental settings. All large hotels offer American, European and Oriental cuisines. Prices vary but are quite low when compared with those in other parts of the world.

Tipping. Tipping is relatively new to Malaysians and not as common as in other countries. Tips are regarded as a form of compliment for personal service rather than an established practice, and are not normally expected by taxi drivers, waiters and hotel personnel. In some hotels and restaurants, a 10% service charge is included in the bill.

Business Practices and Information

Entertainment. Visitors will find the usual forms of entertainment. English is widely used in radio broadcasts, plays, films, newspapers, and other publications. Entertainment at private clubs is popular with executives, although entry is restricted to members and their guests. Business entertaining in private homes is widely practiced in Malaysia, and the foreign businessman in all probability will be invited to his Malaysian colleague's home.

Language. The national language, Malay, is used in all official correspondence. English, however, is the most widely-used language among businessmen.

Time Factors. Malaysian time is 7 hours ahead of Greenwich Mean Time and 12½ hours ahead of US Eastern Standard Time, but an additional half hour of daylight saving is in effect.

Dates. Dates are written in the sequence of day-month-year. Thus 7/10/76 is read as the 7th day of October 1976, not July 10, 1976.

Weights and Measures. The Weights and Measures Bill passed by Parliament recently adopted the metric system with S.I. units (Systeme International d'Unites) as the only legal basic unit of measurement in Malaysia. A ten-year period has been given for complete conversion; thus, by 1982 Malaysia expects to be measuring in terms of meters. Standard weights and measures still in use are yards, pounds, katis, and gallons. Temperatures are measured in Fahrenheit degrees.

Electric Current. Standard current throughout Malaysia is 240 volts—50 cycles AC. Some major hotels and motels provide for 110-volt electric razors. The 240-volt power point requires a three-pronged electric plug.

Cost of Living. The cost of living in general is lower in Malaysia than in the United States and other European countries although it has increased substantially in recent years. Food, clothing and rents are relatively inexpensive. A medium-size popular family car costs approximately US$3,800.

Medical Services. Malaysia's sanitary conditions and medical care facilities are considered good. The water is safe to drink except in some rural areas and small towns where it should first be boiled.

ENTRY REQUIREMENTS

Travel Documents. All persons entering Malaysia must have valid national passports or other internationally recognized travel documents. Those who are in possession of passports not recognized by Malaysia must apply to the Malaysian missions abroad for an affidavit in lieu of a passport.

Commonwealth citizens, British protected persons and citizens of the Republic of Ireland are not required to have visas for entry into Malaysia. All other persons, with the exception of nationals of Albania, China, Cuba, East Germany, North Korea, North Vietnam, Mongolia, Israel, South Africa, and Rhodesia, are allowed to travel within Malaysia for social or tourist purposes up to one week without a visa. They must apply for visas prior to their arrival in Malaysia, however, if they wish to stay for a longer period. Persons who have been allowed entry for visits of up to one week only will not be given an extension of their stay while in Malaysia. They are also not permitted to engage in any business or accept any form of employment. Should such persons wish to extend their visit, conduct business or take up employment, they must first leave the country and then apply for the appropriate visa to re-enter the country for the purpose intended. They cannot enter Malaysia before the visas are issued.

The following countries have agreements with Malaysia for partial or total abolition of visas:

Country	Terms
Belgium	Partial. No visa required for a stay of up to three months for social or business purposes.
Finland	Partial. No visa required for a stay of up to three months for social or business purposes.
France	Partial. No visa required for a stay of up to three months.
Germany (Federal (Republic of)	Partial. No visa required for social or business visits of up to three months. If taking up employment, visa required.
Iceland	Partial. No visa required for a stay of up to three months.
Italy	Partial. No visa required for social or business visits of up to three months. If taking up employment, visa required.

Business Practices and Information

Country	Terms
Liechtenstein	Total. No visa required.
Luxembourg	Partial. No visa required for a stay of up to three months for social or business purposes.
Netherlands	Total. No visa required.
Norway	Partial. No visa required for a stay of up to three months for social or business purposes.
Philippines	Philippine nationals holding Philippine diplomatic or special passports do not require a visa to enter Malaysia. Philippine nationals holding regular passports need a visa, but fee is waived if visit is for less than 60 days.
San Marino	Total. No visa required.
Sweden	Partial. No visa required for a stay of up to three months for social or business purposes.
Switzerland	Total. No visa required.
Thailand	Thailand nationals holding diplomatic or service passports do not require a visa to enter Malaysia. Thailand nationals holding regular passports need a visa but fee is waived.
Tunisia	Partial. No visa required for a stay of up to three months for social or business purposes. Visas are required for employment.
USA	Partial. No visa is required for social or business purposes or for holders of student passes. Visas are required for employment.

Application for a visa should be made well in advance of a projected trip at the nearest Malaysia mission abroad. In countries where Malaysian missions have not been established, application should be made to the nearest British High Commission or Embassy. Visa applicants should clearly indicate which Malaysian states they wish to visit.

All persons wishing to enter Malaysia for social, business or professional reasons are required to obtain a visit pass specifying their length of stay from the immigration authorities at the point of entry. Applications for a stay exceeding three months must be made with the Malaysian Embassy in the respective country, prior to arrival in Malaysia, and all applicants must have sponsors in Malaysia. Visitors staying in Malaysia for more than one year are required to obtain a national registration identity card from the nearest registration office. No foreigner may take up employment without obtaining a work permit.

Travelers wishing to enter East Malaysia from West Malaysia are required to obtain permission from the immigration authorities of the respective states in West Malaysia.

Immunization. All persons entering Malaysia must have an international certificate of vaccination against smallpox certifying vaccination not more than three years before entry date and a certificate of innoculation against cholera issued not less than six days or more than six months before entry. Shots for typhus and typhoid are also recommended.

Currency. Malaysia's currency is based on the decimal system with the Malaysian ringgit (dollar) being made up of 100 sens (cents). Any amount of foreign currency, except for the Indian rupee and the Indonesian rupiah, or travelers checks may be brought into Malaysia, provided they are declared at customs. The limit placed on the rupee and the rupiah is the equivalent to M$1,000. Any currency amounts brought into the country may be taken out, but not more than M$1,000 may be taken out of Malaysia. If a businessman or traveler had or has acquired funds while in the country, taking such funds out requires the approval of the Bank Negarà (Central Bank of Malaysia).

The use of credit cards is growing, and American Express, Diners' Club and Carte Blanche are accepted at all major hotels, restaurants and some retail shops. Travelers checks are readily accepted by all banks.

TRANSPORTATION

Traveling to Malaysia. Minimum flying time from London to Malaysia is 14 hours and from the West Coast of the United States 24 hours. International air service is provided by Malaysian Airlines and 19 other scheduled airlines. Kuala Lumpur is easily reached by car or train from Bangkok or Singapore. By sea, ships dock at Penang and Port Kelang in West Malaysia, Port Kelang being about 25 miles from Kuala Lumpur, or at the ports of Kuching and Kota Kinabalu in East Malaysia.

Overseas visitors are permitted to bring into Malaysia duty free a quart each of wine and liquor, about 12 ounces of perfume and 200 cigarettes.

Traveling within Malaysia. The national airline, MAS (Malaysian Airline System), provides a comprehensive network of interstate flights, making all major cities in Malaysia accessible by air in a matter of an hour or so. Train service is good, with a line running the length of the west coast of Peninsular West Malaysia and another branching out to the east coast. Sabah has a 100-mile (160.9 km.) railway system running from the capital to all major cities along the west coast.

The best form of transportation, however, is by car. Automobile travel between towns is popular as Malaysia has one of the best networks of highways and roads in Asia. A main highway runs from the Thai border in the north to Singapore in the south, while another links the west and east coasts of West Malaysia. All major towns can be approached by two or three different routes. More than 11,000 miles (17,699 km.) of excellent highways link every town and village in West Malaysia, while another 3,000 miles (4,827 km.) of roads in East Malaysia serve to connect Sabah's and Sarawak's major cities.

Bus service supplements the rail system, and all large cities have their own regularly scheduled bus service and taxis.

Traffic is relatively heavy within towns. Traffic jams are daily occurrences in the capital city of Kuala Lumpur before and after office hours, and it is therefore advisable not to travel during those hours. All traffic moves on the left-hand side of the road with the right-of-way being accorded vehicles on the right. Road signs are written in English and Malay.

COMMUNICATIONS

Mail, Cables, Telex, and Telephone. Mail is delivered twice daily, excluding Sundays, in all large cities, and once a day in smaller towns and districts. Mail within city limits may arrive in the afternoon of the same day it was mailed. Most businesses rent post office boxes to obtain their mail more quickly. A postal code system is in use. International airmail service is reasonably good.

International cables or internal telegrams may be sent from any post office or private telephone in the country. Automatic telex exchanges are available in Kuala Lumpur, Kuching, Kota Kinabalu, and Penang. Malaysia's telegraph and telex facilities have been rated by the World Bank as being in the A category, comparable to facilities provided in the developed countries of the West. Telephone service is dependable and quick. There is direct dialing between major cities and to Singapore.

Advertising and Publications. For more effective advertising, most companies use four languages, namely, English, Malay, Chinese (Mandarin and local dialects), and Tamil. The mass media of communication are television, radio, newspapers, and publications, in that order.

BUSINESS HOURS

Most offices operate on a five and a half day week, from Monday to Friday, and a half day on Saturday. Some companies, however, have adopted the five-day week. In the states of Kelantan, Perlis, Kedah, Trengganu, and Johore, the working week is from Saturday to Wednesday and a half day on Thursday. Friday is a non-working day.

Commercial and Government Offices. Most offices are open Monday-Friday from 8:00 a.m. to 5:00 p.m. with a lunch break from 1:00 to 2:00 p.m. Saturday office hours are from 8:00 a.m. to 1:00 p.m.

Government offices are open from 8:00 a.m. to 4:00 p.m. Monday-Friday with a lunch break from 12:45 to 2:00 p.m. Saturday office hours are from 8:00 a.m. to 12:45 p.m.

Banks. Commercial banks are open for business at 10:00 a.m., Monday to Friday, and close at 3:00 p.m. On Saturday they are open from 9:30 to 11:30 a.m.

Retail Stores. Most stores open for business at 9:00 a.m., Mondays through Saturdays, and close at 6:30 p.m. Supermarkets are open from 10:00 a.m. to 10:00 p.m. daily, including Sunday.

All Muslims are given an additional hour on Friday to attend public prayers from 12:00 noon to 1:00 p.m.

PUBLIC HOLIDAYS

The following public holidays are observed in all Malaysian states.

Awal Muharram (except Sarawak)	Varies
Chinese New Year	Fixed by lunar calendar
Prophet Mohamad's Birthday	Fixed by Muslim calendar
Labor Day	May 1
Wesak Day (except for Sabah and Sarawak)	Fixed by lunar calendar

Yang di-Pertuan Agong's Birthday	Varies (ruler is chosen for five-year term)
National Day	August 31
Hari Raya Puasa	Varies
Deepavali (except Sabah and Sarawak)	Varies
Hari Raya Haji	Varies
Christmas	December 25

In addition, various states celebrate public holidays on the occasion of their rulers' birthdays and according to their own customs. The federal territory (Kuala Lumpur district) celebrates City Day on February 1.

CHAPTER 5

Forms of Business Entities

- PRINCIPAL BUSINESS ENTITIES
- SOLE PROPRIETORSHIP
- PARTNERSHIPS
- INCORPORATED COMPANY OR CORPORATION
- MANAGEMENT OF A COMPANY
- FINANCIAL STRUCTURE
- OTHER ENTITIES

PRINCIPAL BUSINESS ENTITIES

The main forms of business entities in Malaysia are:

Sole proprietorship
Partnerships
Incorporated company or corporation
Other:
Branch of foreign company
Joint venture
Cooperative societies

Foreigners who wish to start a business in Malaysia can incorporate a company locally under the Companies Act, enter into a joint venture in either the public or private sectors or start a branch of the parent company. The choice of a particular form of business entity involves tax and other considerations and legal counsel is therefore recommended.

SOLE PROPRIETORSHIP

A sole proprietorship refers to a business that is owned and operated by a single individual. It entails no special costs or compliance with any legal requirements to start, and it is not required to be registered with the registrar of business. Such a business is not regarded as a legal entity as property is held in the owner's name only, and he alone is responsible for all debts and liabilities incurred by the business. Sole proprietorships are locally owned and are predominant in the retail industry in Malaysia. Growth of sole proprietorship is hampered by the difficulty involved in raising capital due to its unlimited legal liability.

PARTNERSHIPS

The formation and operation of partnerships in Malaysia are regulated by the Contracts (Malay States) Ordinance and are based on the British system. Within a partnership, the number of partners may not exceed 20, except in banking. There is no taxation on the partnership, but partners' incomes from the business are taxable. Though partnership agreements may be either oral or written, they should cover such issues as assets and liabilities of the business, amount of investment and services contributed by each partner, share of earnings, salaries, authority of each partner and procedures for dissolving the partnership or adding new partners.

In a limited partnership, a partner is liable only to the extent of the amount of capital he contributed. He is not normally allowed, however, to take an active part in the business which is undertaken by the general partner with unlimited liability. Partnerships in Malaysia comprise an estimated 80,000 units and are popular mainly with professionals such as doctors, lawyers and accountants. Annual turnover is an estimated $200,000 per unit.

INCORPORATED COMPANY OR CORPORATION

The Companies Act 1965, which is based on the British 1948 Act and the New Zealand and Australian Companies Acts, provides for the incorporation of companies with limited and unlimited liabilities and the regulations governing such companies after formation including the manner in which a company may borrow. Local and foreign companies planning to operate in Malaysia by incorporating a company must register with the registrar of companies and are required to pay, among other fees, stamp duty which varies with the amount of the authorized capital.

Foreign Companies. A foreign company is a company incorporated outside Malaysia but one conducting a business or having a place of business in Malaysia. Every foreign company is required, within one month of establishing a place of business or commencing a business in Malaysia, to file with the registrar of companies the following documents:

1. Certified copy of the certificate of incorporation.

2. Certified copy of its charter, statute or memorandum and articles or other instrument defining its constitution.

3. List of its directors with names, residential addresses, nationalities, occupations, particulars of other directorships and passport numbers.

4. Where the list includes directors resident in Malaysia, a memorandum duly executed by the foreign company stating the powers of such local directors.

5. Binding memorandum of appointment stating the name and address

of one or more persons resident in Malaysia authorized to accept service of process or notice on the company.

6. Address of its registered office in Malaysia which shall be accessible to the public.

7. Statutory declaration in the prescribed form made by the company's agent.

Upon payment of the appropriate registration fees, the registrar will issue a Certificate of Registration. Registration may be made either in English or Malay.

An annual financial statement must be lodged with the registrar. Where a foreign company increases its authorized share capital or its members beyond the registered number, it shall, within one month, file a notice of such increase with the registrar.

Types of Companies. Companies may be limited or unlimited, private or public. A limited company may be limited by guarantee or by shares or by both shares and guarantee.

A private limited company in Malaysia bears the words Sendirian Berhad or Sdn. Bhd. after its name. The total number of members may vary from two to a maximum of fifty. No public subscription for shares is allowed, and transferability of shares is restricted among its members. Liability of members is limited. A public limited company *has the word Berhad after its name.* Unlike *the private limited company,* however, the number of its members is unlimited, subscription for shares is open to the public and shares are freely transferable. Profits of both private and public companies are subject to income tax.

An analysis of share capital of limited companies in West Malaysia at the end of 1970 revealed a predominance of foreign ownership. Of the total share capital of M$5,288 million, 60.7% was held by foreign interests compared with 22.5% by Chinese, 1.9% by Malays and 1.0% by Indians.

Organizing a Company. To obtain a Certificate of Incorporation, the promoters or their representatives must file the following documents with the registrar of companies:

1. Reservation of Company Name. The company must first formally submit to the registrar of companies its proposed name. Certain names may not be approved, including one similar to another already registered.

2. Memorandum of Association. This document contains the name of the company, its location, objects of the company, statement of share-

holders' liability, amount of share capital and its division, full names, addresses and occupations of subscribers and number of shares subscribed.

3. Articles of Association. These are the bylaws which regulate the internal affairs of the company. The articles must be printed and signed by each subscriber. The company may adopt model articles contained in Table A of Schedule 4 of the Companies Act or it may prepare its own articles of association, within limits. The articles include the appointment of the first directors, directors' powers and remuneration, calls and forfeiture of shares and general meetings.

Other requirements are:

a. A statutory declaration by a solicitor engaged in the formation of the company or by a director or secretary named in the articles that the requirements of the Companies Act 1965 and other matters pertaining to the registration have been complied with (Form 6).

b. A certificate of identity of the subscribers and the officers named in the articles (Form 7).

c. Notice of location of registered office, office hours and particulars of changes (Form 44). This must be filed with the registrar within one month after the date of incorporation.

d. Consent of the directors to act (Form 45).

e. Statutory declaration by a person before appointment as director (Form 48A).

f. List of directors, managers and secretaries (Form 49). This must be filed with the registrar within one month of the appointment of the first directors.

Filing Fees. Upon reservation of name, a fee of $15 is chargeable, and on submission of the various prescribed forms, a charge of $5 is levied on each. When the Certificate of Incorporation is issued, a private company may commence business immediately. A public company, however, may not commence business until it has been issued a Certificate to Commence Business. Before a public company is issued a Certificate to Commence Business, two copies of the statement in lieu of the prospectus must be filed with the registrar. A foreign company when filing these documents must apply to the Foreign Investments Committee of the Economic Planning Unit in Malaysia as there are certain requirements to be complied with regarding local ownership of the company's equity.

Contents of the Prospectus. The prospectus must include a report from an approved company auditor on the company's assets and liabilities, its profits and losses and its subsidiaries, if any. It must also include details regarding management shares, options for the purchase of securities, promotional expenses, and any property or business proposed for acquisition. The company secretary or director must file a declaration that all these formalities have been complied with.

Costs of Incorporation. Incorporation costs include:

1. Professional Fee. A professional fee of about M$1,200 may be charged, depending on the amount of work involved. To this figure must be added the printing of the Memorandum and Articles of Association, which may cost M$4 per copy, stamping fees, cost of common seal and other disbursements.

2. Registration Fee. This figure is based on the amount of nominal share capital as follows:

Where nominal share capital does not exceed $25,000	M$300
For every additional $5,000 up to $500,000	20
For every additional $5,000, after $500,000, up to $1,000,000	10
For every additional $15,000, after $1,000,000, up to $50,000,000	5
For every $20,000 after the first $50,000,000	3

For the registration of a foreign company branch, the fee is half the normal fee. Where the foreign company has no share capital and engages in trade, commerce or industry, including transportation, the fee is half the maximum fee payable by locally incorporated companies.

3. Filing fee and other minor expenses.

MANAGEMENT OF A COMPANY

Company management is in the hands of the directors whose powers are defined in the articles. The duties and rights of directors are prescribed by law.

Board of Directors. Every company must have a minimum of two directors, both of whom must have their principal or only place of residence in Malaysia. The first directors are appointed in the Articles of Association. Some articles stipulate that all directors or one-third of the total should retire from office at the first annual general meeting of the company; however, being eligible, they may offer themselves for reappointment. A motion for the appointment of two or more persons as directors in a public company must be voted on individually. Malaysian company law prohibits a company from being a director. Other disqualifications for directorship include bankruptcy, previous conviction on certain offenses and persons of unsound mind. The Companies Act does not require that a director hold any shares in a company to qualify as a director, but a share qualification is often included in the articles. The age limit for directors in a public company is 70, but an individual over this age limit may be reelected if a resolution to this effect is passed by three-fourths of the shareholders entitled to vote. A director of a public company may be removed by ordinary resolution before the expiration of his term of office, but he cannot be removed from office by resolution, request or notice of the other directors, regardless of any item in the articles or agreement.

Remuneration of directors is determined in the articles or at shareholders' meetings and must be indicated in the profit and loss account. The total amount for inclusion in the accounts should not include fees paid for professional services rendered to the company. No remuneration to a director may exclude the payment of income tax.

Unless fixed by the directors, the quorum in a directors' meeting shall be two. If this is not mentioned in the articles and the directors do not fix a quorum, then the number of directors who normally conduct the company's business will be regarded as the quorum. Minutes of directors' meetings and general meetings must be entered into minute books within 14 days of the date on which the meeting was held. Decisions will be determined by majority vote. In a case of an equal number of votes, a second or casting vote by the chairman is allowed.

Annual Financial Statements. The directors are required to present at the shareholders' annual general meeting financial statements (a profit and loss account and balance sheet) and a directors' report. The contents of the directors' report are prescribed in the Companies Act; the intent of the report being that of giving the shareholders a description of the year's activities and results, of drawing their attention to any matters of an unusual nature and, at times, of forewarning them against the possibility of a decline in the company's fortunes. In addition, formal statements testifying to the accuracy of the financial statements must be made by two directors, the secretary/managing director and the external auditor. The annual return, signed by a director or secretary, and attached financial statements must also be filed with the registrar within one month from the date of the annual general meeting.

Dividends. Dividends may be declared and paid only from profits. The directors usually recommend the payment of dividends, and this is declared by shareholders at the general meeting. Directors are also authorized by the articles to declare interim dividends.

Dissolution of Company. A company may be dissolved by court order (compulsory liquidation) or voluntarily at the request of its shareholders or creditors. In the case of a defunct company, it may be de-registered by the registrar. In a company limited by shares, no contribution shall be required from any member except the unpaid amount on his shares. The petition for dissolution may be made by the company, a creditor and, in the case of a bank or licensed borrowing company, the order may come from the central bank.

The company may be dissolved by court order if there is a default by the company in filing the statutory report or in holding the statutory meeting or if proof is submitted to the court that the company is unable to pay its debts. The court then appoints a liquidator or the official receiver for the dissolution. The liquidator, whose salary is paid from the assets of the company, is responsible for the determination of the company's assets, liabilities, making arrangements with creditors for the settlement of claims, and performing all other duties necessary for the proper settlement of the company's affairs and the equitable distribution of its assets.

In the case of voluntary liquidation, the company must file with the registrar, within seven days, the notice of its resolution to dissolve and, within ten days, publish said resolution in the press. The directors will then appoint a liquidator at the general meeting. If the company is unable to pay its debts in full within twelve months of dissolution, the liquidator will report to the creditors who will then appoint their own liquidator.

In the last case, if the registrar has cause to believe that a company is not operating or carrying on business, it will give one month's notice of inquiry. On failing to obtain a reply, it will issue a three-month notice of intent of dissolution unless the company can produce evidence to the contrary.

FINANCIAL STRUCTURE

There are no minimum capital requirements under Malaysian company laws.

The share capital of a company is divided into different classes of shares of fixed amounts with varying degrees of rights in regard to dividends, repayment of capital and voting powers. Shares have a par or face value which is normally M$1 each. Such information is usually contained in the Articles of Association. When a company increases its share capital beyond the registered capital, it must file notice of the increase with the registrar within one month after authorizing said increase. A company may also reduce its share capital by special resolution subject to confirmation by the court.

Ordinary Shares. Ordinary or common shares form the bulk of a company's capital. They may be divided into classes with varying rights as to dividends, voting powers and capital repayment. In general, dividends on ordinary shares are paid only after all other claims have been met.

Preference Shares. No company is allowed to issue preference shares unless particulars with respect to the repayment of capital, participation in surplus assets and profits, cumulative and noncumulative dividends, voting, and priority of payment of capital and dividends in relation to other shares or other classes of preference shares are set out in the company's Articles of Association. Holders of preference shares are given preferential rights to fixed dividends before common shareholders. Cumulative preference shareholders would have the right to arrears on dividends of previous years.

Deferred Shares. These are sometimes known as founders' shares for they are generally held by the promoters themselves. Deferred shareholders receive whatever has not been distributed from total profits after all other types of shareholders have been paid.

Issue of Shares. The power to issue shares is usually in the hands of the directors, who may allot or dispose of shares either at premium or at par. Within one month after the allotment of any shares, the directors must file with the registrar a return of the allotment. The Companies Act forbids a company from purchasing or dealing in its own shares or providing financial assistance or security for the purchase of its shares. Within two months after the allotment of any shares, the requisite certificates must be completed and delivered to the holder. In the case of public companies, before issue of shares, a prospectus must be issued and no shares may be allotted unless the minimum subscription specified in the prospectus has been subscribed for four months after the issue of the prospectus. Shares issued to the public need not be fully paid but 5% at least must be paid on subscription.

Liabilities of Shareholders. Shareholders are liable only on the amount of their investments in a limited company.

Rights of Shareholders. Shareholders' rights are established in the Articles of Association. Rights contained in the articles can only be altered by special resolution, approved by at least 75% of shareholders present at the meeting. A minimum of 21 days' notice of the meeting must be given, but this can be dispensed with by approval of the shareholders owning 95% of the voting rights. Unless otherwise stated, voting rights are in accordance with the number of shares owned.

Shares in public companies listed on the exchange are transferable without restriction. An unlisted public company and a private limited company may restrict transfers.

Shareholders have the right to inspect the company's register of shareholders, register of directors, register of debenture holders, and other registers required by the Companies Act. The public may also inspect the registers on payment of M$1.

The annual general meeting must be held at least once in a calendar year within 15 months from the date of the previous annual general meeting. However, if the first annual general meeting is held within 18 months after the date of incorporation, the company need not hold such a meeting in the year of its incorporation or in the following year. Thus, if the company is registered on November 1, 1976, and its first accounts cover the period up to December 31, 1977, such accounts may be presented at the first annual general meeting to be held not later than April 30, 1978.

Extraordinary meetings may be called at the request of the directors or shareholders holding at least 10% of the paid-up capital.

Debentures. Debentures issued to or purchased by the public represent an acknowledgment of a debt on the company's part. Debenture holders are, therefore, creditors of the company and are paid interest on their loans regardless of whether the company is making a profit or not.

Every company which issues debentures is required to keep a register of the debenture holders at its registered office, and this register should be open for inspection to all registered holders of debentures and shares in the company. On offer of debentures to the public for subscription, the company must also make provisions for the appointment of a trustee for the debenture holders. Trustees are liable for breach of trust when they fail to show the degree of care and diligence required. The duties of the trustee include, among other things, an obligation to ensure that the security charged is sufficient to discharge the debt and that the prospectus relating to the debentures is consistent with the terms of the debentures.

Debentures can be secured or unsecured. Secured issues may take the form of a fixed mortgage or a charge over specific assets or they may consist of a floating charge. In cases involving large borrowings, it is usual for securities to consist of a floating charge. In other cases, the security consists of a fixed mortgage on land and buildings and a floating charge over the remaining assets.

Trust deeds normally contain detailed provisions for fixing maximum permissible liabilities and for maintaining stipulated ratios between the company's assets and liabilities, including a clear definition of the method of calculation. Other provisions also include covenants by the borrowers as to the maintenance and conduct of their businesses and the form of periodic financial statements and reports. Acts and events constituting default and the procedures available in the event of default are also stated. Trust deeds of issue of debentures must be registered within 30 days of their issue. This registration requirement does not apply to unsecured notes because no security or charge over assets is involved.

OTHER ENTITIES

Joint Ventures. The Malaysian government welcomes and promotes joint ventures with foreign investors. This form of business entity has become increasingly popular in recent years. The government recognizes the lack of technical skill and management expertise required to exploit the country's natural resources and encourages the contribution of such skills from foreigners and local capital participation. The government itself has taken the lead, through its agencies and corporation, in a series of joint ventures in petroleum exploitation, highway projects and manufacturing (rubber-based products, engineering parts and equipment). There are currently nine foreign oil companies involved in a joint venture with Petronas, the government incorporated body, in exploiting oil resources off the coast. The present general agreement allows 40% of the oil output to the foreign companies for costs of recovery and the remaining balance to be shared on a 60-40 basis, with Petronas getting the larger share.

To assist joint ventures in industrial projects, FIDA operates a registry of potential investors. Foreign investors wishing to obtain introduction to local businessmen may make use of this service.

Cooperative Societies. The cooperative movement was introduced in 1922 with the passing of the Cooperative Societies Enactment 1922, and the first cooperative society was formed in Kuala Lumpur in 1923.

The policy of the Department of Cooperative Development in Malaysia has been concentrated on the consolidation of the primary societies, the amalgamation of small unit rural societies into larger and more viable multipurpose cooperatives extending credit for consumer and marketing activities. Rural credit cooperatives are organized into rural banking unions. These are headed by Bank Kerjasama which provides loans at low interest rates to padi farmers. To a large extent, this has resulted in eliminating the 'padi kuncha' system—the practice of advance sale of padi at unfavorable prices to middlemen.

Other cooperative societies are engaged in rice-milling, marketing of padi, and giving financial assistance to small-scale fishermen for the purchase of modern fishing equipment.

In urban areas, limited liability cooperatives such as the Thrift and Loan Cooperative Societies are common among public servants and salaried employees. In Malaysia, the Malaysian Cooperative Insurance Society has achieved tremendous success and has branched out into investments in real estate and retail business. Cooperative housing societies have provided more housing accommodations, reduced housing rents and generally have made it possible for the ordinary worker to own his own home.

The constitution and the control of cooperative societies in Malaysia are governed by the Cooperative Societies Ordinance 1948. Cooperative societies are exempt from stamp duty and payroll tax. One of the most important privileges enjoyed by cooperative societies is providing deduction facilities whereby members may pay dues by deduction from their salaries.

CHAPTER 6

Accounting & Auditing

- ORGANIZATION OF THE ACCOUNTING PROFESSION
- ACCOUNTING PRINCIPLES AND PRACTICES
- LEGAL REQUIREMENTS
- FINANCIAL STATEMENT PRESENTATION

The accounting profession in Malaysia generally follows the accounting principles and practices of the United Kingdom and Australia, while reporting standards are prescribed by Malaysian legislation. Most of the partners in local accounting and other practicing accounting firms have undergone training in the United Kingdom or Australia. Under the Accountants' Act 1967, only those persons who are registered with the Malaysian Institute of Accountants (MIA), a body legislated under the act, are allowed to practice in Malaysia. Members of another body, the Malaysian Association of Certified Public Accountants (MACPA), automatically qualify for membership in the MIA upon application.

ORGANIZATION OF THE ACCOUNTING PROFESSION

Malaysian Association of Certified Public Accountants (MACPA). The MACPA was formed in 1958 by members of the Association of Chartered and Incorporated Accountants in Malaya. Its principal objectives include providing a means of examination whereby candidates may qualify for membership and be able to practice as accountants, establishing an organization that will advance members' interests and defining and implementing rules of professional conduct.

Membership in the MACPA is open to anyone who has passed all the examinations conducted by the association or to anyone who holds a recognized accounting qualification and has acquired adequate public accountancy experience and has satisfied other requirements stipulated in the articles and bylaws of the association.

Recognition. Membership in the association is recognized by the Malaysian government as one of the qualifications for appointment as an accountant in government service.

Examinations. To ensure that examinations conducted by the MACPA are of high standard and command wide recognition, in 1965 the association entered into an agreement with the various chartered accountancy bodies in Scotland, England, Wales, and Ireland regarding examination standards.

Since 1970, however, all examinations have been administered locally. They are held in December of each year in Kuala Lumpur, Penang, Kota Kinabalu, and Singapore. Setting and marking of examination papers is rigorous, and on the average only about 30% of those taking the examinations have passed. Registered students of the association in addition to passing all the examinations are also required to receive practical training in a public accountant's office. The period of training is normally four years for higher school certificate holders and three years for graduates in accounting from any of the universities (at present the University of Malaya) or colleges (MARA Institute of Technology) approved by the association. Graduate students in accounting are also exempted from part 1 of the examinations (examinations consist of three parts), and they are further allowed an exemption from part 2 if they have acquired a diploma in accounting issued by the accounting department of the University of Malaya. Effective from 1 January 1976, members of recognized overseas accounting bodies with the required practical experience will also be required to pass the Malaysian taxation and the company law paper of the association's examinations in order to be admitted as members of the association.

Designation. A member of the MACPA may describe himself as a Certified Public Accountant (Malaysia) and after his name may use the initials CPA(M). The association's total membership as of 1 January 1975, including overseas members, is as follows:

Members in practice (sole practitioners and partners in accounting firms)	263
Members not in practice (employees of practitioners and partnerships and those employed in commerce, industry and the public sector)	303
Total	566

Company Auditor. The Malaysian Companies Act requires all companies incorporated under the act to appoint only those auditors who have obtained the necessary government license to perform auditing functions.

A member is not eligible to be a company auditor if he is an officer or servant of the company or group company or if he is a partner or employee of an officer or servant of the company or group company. A company auditor must be a natural person, and, therefore, a corporate body cannot act as a company auditor.

ACCOUNTING PRINCIPLES AND PRACTICES

The recognition and adoption of accounting principles by the profession have been slow. Neither the Institute of Accountants (MIA) nor the Malaysian Association of Certified Public Accountants (MACPA) has issued authoritative statements on accounting principles that are mandatory. Accounting principles in Malaysia are very much influenced by English, Australian, and American professional bodies; and the reporting standards generally conform to the minimum legal requirements prescribed by Malaysian legislation. In fact, very often decisions are made which adhere closely to recommendations, practices and standards of these overseas accounting professional bodies.

Recently two statements on accounting practices were issued by the association, "Recommendations on the Presentation of Accounts" and "Auditor Reports and Qualifications," based largely on those of the Institute of Chartered Accountants in England and Wales and the Institute of Chartered Accountants in Australia.

Inventory Valuation. The basis of inventory valuation is required to be disclosed in the financial statements. The MACPA has recommended that the term "lower of cost or market value" not be used in financial statements because of the uncertainty involved in the term "market." Emphasis is placed upon the importance of applying a consistent basis of valuation from year to year so that results will reflect the real trend of trading and will not be distorted. Any change in the basis of accounting is to be disclosed in the accounts. Most inventories are usually valued on the following basis:

1. At cost.

2. At the lower of cost or net realizable value. The expression net realizable value is defined as the estimated net amount which is realized, after the deduction of selling costs, from the sale of stock in the regular course of business.

3. At the lowest of cost or net realizable value or replacement value.

The basis of cost is average cost, FIFO, standard cost or unit cost. Provisions are also made for slow-moving, obsolete and unsaleable merchandise.

Fixed Assets and Depreciation. Fixed assets in the form of land, buildings, equipment and machinery are stated in the financial statements at either historical cost or valuation. In the latter case, the date of valuation and the name of the expert appraiser must be disclosed in the accounts.

Assets stated at valuation are to be separated from those stated at historical cost. Charges for depreciation on fixed assets such as buildings, land, plant or machinery are not allowable deductions for income tax purposes. However, appropriate capital allowances as stipulated by the tax authority are allowed. Rates of depreciation used vary according to individual companies, but both the straight-line and the reducing balance methods are employed.

Consolidation Practices. The Companies Act requires that a consolidated profit and loss account and balance sheet of the holding company and its subsidiaries be appended to the financial statements of the holding company. In addition, where a holding company has a subsidiary incorporated in a country outside Malaysia, not only consolidated accounts including that subsidiary, but also a separate profit and loss account and balance sheet of the foreign subsidiary company should be appended to the financial statements of the holding company. Where it is not possible to include a subsidiary's accounts in the consolidated financial statements, a separate profit and loss account and balance sheet of the subsidiary company should be appended to the consolidated accounts and an explanation given as to the reason for not incorporating said subsidiary's accounts.

LEGAL REQUIREMENTS

The Malaysian Companies Act 1965 governs legal reporting and audit requirements. Procedures have followed closely along British lines, modified only in part to suit local conditions. Company directors are entrusted with general responsibilities established by common law. In addition, the Companies Act set down certain statutory duties of directors.

Statutory Duties of Directors

1. The Companies Act (Section 167) imposes an obligation on directors to keep such accounting records as will explain the transactions and financial position of a company. Further, accounts must be recorded within 60 days of the completion of transactions.

2. Directors are required to present to shareholders an audited profit and loss account and balance sheet during the annual general meeting. The first profit and loss account and balance sheet must be presented within the first 18 months of the company's incorporation and thereafter at not more than a 15-month interval. The accounts must be prepared not more than six months prior to the date of the annual

general meeting.

3. A statutory declaration attesting to the validity of the accounts must be made by a director or an officer of the company responsible for the preparation of the accounts.

4. Together with the financial accounts, a statement must be issued by two of the company's directors that the accounts give a true and fair view of the financial position of the company.

5. A directors' report must also be prepared as set out in Section 169 of the Companies Act. The directors are required to state:

a. Whether the results of the operations of the company during the period have been affected by items of an unusual nature. These items would include:

- Any change in accounting principles adopted since the last report
- Any transfers to or from reserves or provision
- Any writing off of substantial amounts of bad debts
- Any change in the basis of valuation of the whole or any part of the trading stock or of the whole or any part of the work in progress
- Any item of an unusual nature or value which appears in the accounts
- Any omission from the accounts of any item usually included therein.

b. The amount, if any, of dividends paid or recommended.

c. Whether or not any circumstances have arisen which render the existing method of valuation of assets inappropriate.

d. Whether any contingent liabilities which have not been discharged have been undertaken by the company within the period of the profit and loss accounts and whether such liabilities if enforceable within the succeeding period of twelve months will materially affect the company's ability to meet its obligations when they become due.

e. The amount, if any, of a proposed addition to the reserve fund.

f. The expected realizable value of current assets if the value of such assets, in the opinion of the directors, is lower than that shown in the accounts of the company.

g. The details of any option granted.

h. Particulars of shares issued in respect of the options to take up unissued shares of the company.

i. The number and class of unissued shares of the company under option, the price, the date of expiration of the options and the rights, if any, of the persons granted the options.

j. The number of each director's shares at the beginning of the period, total of shares bought and sold by each director during the period and the balance at the end of the period.

The annual financial statements must be filed with the registrar of companies within one month from the date of the annual general meeting.

A penalty is imposed (Section 171) on any director who fails to comply or to take all reasonable steps to secure compliance with the accounts and report provisions.

Required Journals and Ledgers. All records and account books must be kept either in English or Malay, and such records should be kept in order to explain the transactions and financial position of the company in such a manner as to enable true and fair accounts to be prepared and, further, they should be accessible so they can be properly audited.

In addition, the following registers are required and should be maintained in the form prescribed by the Companies Act:

Minutes of general meetings
Minutes of meetings of directors
Register of members
Register of directors, managers and secretaries
Register of directors' shareholdings
Register of substantial shareholdings
Register of charges
Register of debenture holders

All books and records must be retained for at least six years after the period to which they relate and preferably for twelve years.

Legal Requirements Relating to Auditors. The directors may appoint the company auditor any time before the first annual general meeting or the company will appoint one at a general meeting. The auditor appointed will hold office until the conclusion of the following annual general meeting of the company, at which time being eligible he may present himself for reappointment. The auditor may be removed from office by resolution of the company at a general meeting of which special notice has been given. Where the auditor has been removed from office at the general meeting, the company may by a resolution of not less than 75 percent of the shareholders entitled to vote appoint another person nominated at the meeting as auditor. Such an appointment must be made at a meeting held not earlier than 20 days and not later than 30 days of the meeting for the auditor's removal. Fees and expenses of an auditor will be fixed by the company at a general meeting, or by the directors or by the registrar of companies, depending on who was responsible for the appointment.

Powers and Duties of Auditors

1. Every auditor is required to report to the shareholders on whether the balance sheet, the profit and loss account, the accounting and other records, and the directors' report examined by him give a true and fair view of the company.

2. The auditor should also give his opinion on whether all the records and financial statements aforementioned have been properly kept.

3. The auditor should also state in his report whether he has obtained all the information and explanations he requires.

4. He should state whether the returns submitted from branch offices are adequate.

5. He should further state whether the directors' report contains the information required by the Companies Act 1965.

6. The auditor should have right of access at all times to the accounting and other records of the company and authority to make inquiries or gather information relating to the audit.

7. The auditor's report should be appended to the balance sheet and the profit and loss account.

8. In addition, the auditor of a borrowing corporation must within seven days of submitting to the corporation the balance sheet and the profit and loss account also make available a copy to the trustee for the debenture holders of the company.

An approved form of presentation of the auditor's report would be as follows:

In our opinion—

a. The accompanying balance sheet and profit and loss account together with the notes thereon are properly drawn up in accordance with the provisions of the Companies Act 1965 so as to give a true and fair view of the state of affairs of the company as at October 31, 1976 and of the results for the period ended on that date.

b. The accounting and other records (including registers) examined by us have been properly kept in accordance with the provisions of said act.

c. The directors' report, insofar as it is required by the said act to consider matters dealt with in the accounting and other records examined by us, gives a true and fair view of such matters.

Auditing Standards. The auditing standards of professional firms in Malaysia generally conform to the requirements of the Malaysian Association of Certified Public Accountants. Since the larger firms are usually linked to international firms, this would mean that generally accepted international accounting standards are being practiced. At present, most of the practicing members in the profession in Malaysia were qualified either in the United Kingdom or Australia. As a result, the auditing standards and practices of these countries have influenced the profession in Malaysia.

FINANCIAL STATEMENT PRESENTATION

The annual accounts presented to shareholders must show a true and fair view of the affairs of the company and the results of its operations. The balance sheet is prepared either in the two-sided form, with assets on the right-hand side and liabilities and shareholders' funds on the left or in the vertical form. In Malaysia, the majority of financial statements are presented in the vertical form. There is no statutory requirement as to the format of the accounts to be adopted except that they must disclose relevant information as required in Schedule 9 of the Malaysian Companies Act 1965.

The income statement is generally called the profit and loss account and includes amounts appropriated from both current profits and undistributed earnings brought forward from previous years.

The following financial statements presented in an accepted format incorporate the minimum requirements of Schedule 9 of the Malaysian Companies Act 1965.

HAROM HOLDINGS BERHAD

CONSOLIDATED PROFIT AND LOSS ACCOUNT
Year ended 31st December 1975

	Note	1975 $'000	1974 $'000
Profit from operations	2	188	158
Share of profits, less losses, of associated companies	3	20	12
Profit before taxation		208	170
Taxation	4	98	80
Profit after taxation and before extraordinary items		110	90
Minority interests		2	2
Profit before extraordinary items		108	88
Extraordinary items	5	37	–
Profit after extraordinary items attributable to the shareholders of Harom Holdings Berhad		145	88
Dividends	6	32	24
Profit retained and transferred to reserves		113	64
Earnings per ordinary share	7		
Before extraordinary items		14¢	11¢
Extraordinary items		4¢	–
After extraoridnary items		18¢	11¢

HAROM HOLDINGS BERHAD

CONSOLIDATED BALANCE SHEET at 31st December 1975

	Note	1975 $'000	1974 $'000
CURRENT ASSETS			
Cash and bank balances		400	450
Debtors		364	325
Inventories		600	520
		1,364	1,295
CURRENT LIABILITIES			
Bank overdrafts	8	106	200
Creditors		371	239
Portion of long-term loans due within one year		40	40
Taxation		80	70
Dividend		20	16
		617	565
NET CURRENT ASSETS		747	730
INVESTMENTS	10	75	65
PROPERTY, PLANT AND EQUIPMENT	11	631	550
GOODWILL	12	70	20
		1,523	1,365
LONG-TERM LOANS	13	80	120
DEFERRED LIABILITIES	14	158	125
MINORITY INTERESTS		22	20
		260	265
		1,263	1,100
SHAREHOLDERS' INTERESTS			
SHARE CAPITAL	15	800	800
RESERVES	16	463	300
		1,263	1,100

HAROM HOLDINGS BERHAD

PROFIT AND LOSS ACCOUNT
Year ended 31st December 1975

	Note	1975 $'000	1974 $'000
Profit from operation before taxation	2	83	46
Taxation	4	31	17
Profit after taxation and before extraordinary items		52	29
Extraordinary items	5	5	–
Profit after taxation and extraordinary items		47	29
Dividends	6	32	24
Profit retained and transferred to reserves		15	5

HAROM HOLDINGS BERHAD

BALANCE SHEET at 31st December 1975

	Note	1975 $'000	1974 $'000
CURRENT ASSETS			
Cash and bank balances		225	400
Debtors		50	30
Inventories		20	10
Amount due from subsidiaries		10	5
		305	445
CURRENT LIABILITIES			
Bank overdrafts	8	30	49
Creditors		35	15
Taxation		5	5
Dividends		20	16
Amount due to subsidiaries		10	5
		100	90
NET CURRENT ASSETS		205	355
SUBSIDIARIES	9	501	301
INVESTMENTS	10	25	25
PROPERTY, PLANT AND EQUIPMENT	11	399	384
		1,130	1,065
LONG-TERM LOANS	13	40	40
DEFERRED LIABILITIES	14	5	5
		1,085	1,020
SHAREHOLDERS' INTERESTS			
SHARE CAPITAL	15	800	800
RESERVES	16	285	220
		1,085	1,020

HAROM HOLDINGS BERHAD

NOTES ON THE ACCOUNTS
Year ended 31st December 1975

1. Accounting policies

(a) Basis of consolidation

The group accounts consolidate the accounts of the company and all subsidiaries. On 30th June 1975, the whole of the issued share capital of C. P. Plastics Limited was acquired for $200,000; the operating results of this company for the six months ended 31st December 1975 are included in the profit and loss account, and profit before taxation includes $21,500 regarding this company.

The investment in subsidiaries is stated at cost in regard to representing acquisitions:

For cash — the cash consideration
By exchange of shares — the market value of shares on the day the offer became unconditional.

The excess of cost of investment in subsidiaries over the value of net assets taken over at the date of acquisition is retained in the consolidated balance sheet as goodwill.

(b) Associated companies

These comprise companies other than subsidiaries in which the group has a beneficial interest of 20% or more of the equity capital and the group through representation on the board participates in commercial and financial policy decisions of these companies.

The consolidated accounts include the group's share of the profits and attributable taxation of the associated companies. In the consolidated balance sheet, the investments in associated companies are shown at cost plus the share of retained profits arising since the acquisition of the investments.

(c) Inventories

Inventories are stated at the lower of cost and net realizable value. Cost represents materials, direct labor and appropriate production overhead.

(d) Fixed assets

Depreciation is not allowed on freehold property. On other assets, it is allowed in equal annual installments over the

HAROM HOLDINGS BERHAD

NOTES ON THE ACCOUNTS
Year ended 31st December 1975
(continued)

estimated life of the asset. The rates of depreciation are as follows:

Leasehold property	Over the term of lease
Plant	15% per year
Motor vehicles	25% per year
Equipment	10% per year

(e) Deferred taxation

This represents taxation at current rates on the amount by which the book value of those fixed assets which qualify for tax allowances (including industrial buildings) exceeds the written-down value of said fixed assets for tax purposes.

(f) Research and development

Expenditure on research and development is written off in the year in which it is incurred.

(g) Product guarantees

Provision has been made for the estimated future cost of maintenance under guarantees in respect of products sold.

(h) Foreign exchange

The assets, liabilities and trading results of the foreign subsidiary have been converted into sterling at the rate of exchange in effect at year end. Gains or losses resulting from realignment of currencies or from conversion of foreign exchange have been treated as normal items of the year's operations.

2. Profit from operations

	GROUP		COMPANY	
	1975	*1974*	*1975*	*1974*
	$'000	*$'000*	*$'000*	*$'000*
Profit from operations (after including the following):				
Gross income from:				
Investments quoted locally	7	7	7	7
Investments quoted abroad	1	3	–	–
Unquoted investments	2	1	1	1

HAROM HOLDINGS BERHAD

NOTES ON THE ACCOUNTS
Year ended 31st December 1975
(continued)

	GROUP		COMPANY	
	1975	*1974*	*1975*	*1974*
	$'000	*$'000*	*$'000*	*$'000*
Charges regarding:				
Depreciation	69	63	5	4
Directors' remuneration	30	32	20	29
Auditors' remuneration	18	17	10	9
Interest on fixed term loan	19	25	13	17
Hire of plant and machinery	1	1	–	–
Rents from office building	12	10	12	10

3. Associated companies

	1975	*1974*
	$'000	*$'000*
Share of profits less losses	20	12
Taxation	10	6
	10	6
Dividends received (unquoted)	–	2
Share of undistributed profits less losses	10	4

The associated companies are listed on page 83.

4. Taxation

Malaysian taxation based on profit for the year:

	GROUP		COMPANY	
	1975	*1974*	*1975*	*1974*
	$'000	*$'000*	*$'000*	*$'000*
Income and development taxes	52	69	21	17
Deferred taxation	40	8	10	3
	92	77	31	20
Overseas taxation	7	4	1	2
Associated companies	10	6	–	–
	109	87	32	22

HAROM HOLDINGS BERHAD

NOTES ON THE ACCOUNTS
Year ended 31st December 1975
(continued)

	GROUP		COMPANY	
	1975	*1974*	*1975*	*1974*
	$'000	*$'000*	*$'000*	*$'000*
Deduct relief for overseas taxation	7	4	2	2
	102	83	34	20
Adjustments to prior years' tax provisions	(4)	(3)	(3)	(3)
	90	80	31	17

5. Extraordinary items

	GROUP		COMPANY	
	1975	*1974*	*1975*	*1974*
	$'000	*$'000*	*$'000*	*$'000*
Capital profit realized on sale of land	42	–	–	–
Loss from expropriation of foreign branch assets	5	–	5	–
	37	–	5	–

6. Dividends

	1975	*1975*	*1974*	*1974*
	Per share	*$'000*	*Per share*	*$'000*
Interim	1.5 cents	12	1.0 cents	8
Proposed final	2.5 cents	20	2.0 cents	16
	4.0 cents	32	3.0 cents	24

7. Earnings per ordinary share

The calculation of earnings per ordinary share before extraordinary items is based on profits of $108,000 (1974–$88,000) and 800,000 ordinary shares in issue throughout the two years ended 31st December 1975.

HAROM HOLDINGS BERHAD

NOTES ON THE ACCOUNTS
Year ended 31st December 1975
(continued)

8. Bank overdrafts

	THE GROUP		THE COMPANY	
	1975	*1974*	*1975*	*1974*
	$'000	*$'000*	*$'000*	*$'000*
Secured	106	49	30	49
Unsecured	–	151	–	–
	106	200	30	49

9. Subsidiaries

The subsidiary companies and the group's interest therein are listed on page 83.

10. Investments

	THE GROUP		THE COMPANY	
	1975	*1974*	*1975*	*1974*
	$'000	*$'000*	*$'000*	*$'000*
Quoted–at cost	50	50	20	20
MARKET VALUE	75	75	25	25
Unquoted				
Associated companies (see note 1)	20	10	–	–
Other–at cost	5	5	5	5
	25	15	5	5
DIRECTORS' VALUATION	40	30	20	20
TOTAL	75	65	25	25

11. Property, plant and equipment

	Cost	*Depreciation*	*1975*	*1974*
The Group	*$'000*	*$'000*	*$'000*	*$'000*
Freehold land	320	–	320	300
Leasehold land	130	51	79	84
Plant and equipment	450	218	232	166
	900	269	631	550

HAROM HOLDINGS BERHAD

NOTES ON THE ACCOUNTS
Year ended 31st December 1975
(continued)

	Cost *$'000*	*Depreciation* *$'000*	*1975* *$'000*	*1974* *$'000*
The Company				
Freehold land	320	–	320	300
Leasehold land	130	51	79	84
Plant and equipment	5	5	–	–
	455	56	399	384

The freehold land was valued on the basis of existing use at $320,000 on 31st December 1975 by Messrs. K. T. and Co. The surplus of $50,000 has been transferred to nondistributable reserves.

12. Goodwill

	1975 *$'000*	*1974* *$'000*
Arising on consolidation	65	15
Cost of goodwill on the acquisition of the business of a subcontractor	5	5
	70	20

13. Long-term loans

	THE GROUP		THE COMPANY	
	1975 *$'000*	*1974* *$'000*	*1975* *$'000*	*1974* *$'000*
Repayable wholly within five years				
Secured – 6% 1968/77	80	120	–	–
Repayable wholly or in part after five years				
Unsecured loan stock – 9% 1991/96	40	40	40	40
	120	160	40	40
Less portion due within one year included in current liabilities	40	40	–	–
	80	120	40	40

HAROM HOLDINGS BERHAD

NOTES ON THE ACCOUNTS
Year ended 31st December 1975
(continued)

The 6% 1968/77 secured loan is repayable at $40,000 in 1976 and $40,000 in 1977. The 9% 1991/96 unsecured loan stock is repayable at the company's option between 1991/96 with the final redemption date of 15th July 1996.

14. Deferred liabilities

	THE GROUP		THE COMPANY	
	1975	*1974*	*1975*	*1974*
	$'000	*$'000*	*$'000*	*$'000*
Deferred taxation	95	55	–	–
Provision for unfunded pensions	63	70	5	5
	158	125	5	5

15. Share capital

	Authorized	*Issued and Fully Paid*	*1974*
Ordinary shares of $1	$1,000,000	$800,000	$800,000

16. Reserves

(a) The Group

		Nondistributable				**Distributable**
	Total Reserves	*Share Premium*	*Revaluation Surplus*	*Associated Companies*	*Total*	**Retained Profits**
	$'000	*$'000*	*$'000*	*$'000*	*$'000*	*$'000*
Balance 1st January 1975	300	100	50	6	156	144
Freehold revaluation (note 11)	50		50		50	
Transfer from profit and loss account	113			10	10	103
Balance 31st December 1975	463	100	100	16	216	247

HAROM HOLDINGS BERHAD

NOTES ON THE ACCOUNTS
Year ended 31st December 1975
(continued)

(b) The Company

	Total Reserves $'000	Nondistributable: Share Premium $'000	Revaluation Surplus $'000	Associated Companies $'000	Total $'000	Distributable Retained Profits $'000
Balance 1st January 1975	220	100	50		150	70
Freehold revaluation (note 11)	50		50		50	
Transfer from profit and loss account	15					15
Balance 31st December 1975	285	100	100		200	85

17. Capital commitments

	THE GROUP 1975 $'000	THE GROUP 1974 $'000	THE COMPANY 1975 $'000	THE COMPANY 1974 $'000
Contracted for but not provided in the accounts	25	75	5	5
Authorized but not yet contracted for	20	60	10	10

18. Contingent liabilities

	THE GROUP 1975 $'000	THE GROUP 1974 $'000	THE COMPANY 1975 $'000	THE COMPANY 1974 $'000
Guarantees	25	23	25	23

HAROM HOLDINGS BERHAD

SUBSIDIARY AND ASSOCIATED COMPANIES

SUBSIDIARIES

Jewelery

Harom (Diamonds) Sdn. Berhad
Harom Fashions Sdn. Berhad

Motor trade

Plastic Industries Pte. Ltd.
Metals Sdn. Berhad
C. P. Plastics Sdn. Berhad

All the subsidiaries are incorporated in Malaysia and are wholly owned with the exception of Plastics Industries Pte. Ltd., which is 75% owned and incorporated in Singapore. All companies operate principally in the country of incorporation.

ASSOCIATED COMPANIES

Harom (Realty) Sdn. Berhad
Harom Agencies Sdn. Berhad

Both companies are incorporated and operate in Malaysia, and the group holds 40% of the ordinary share capital in both companies. These companies have no other classes of shares or loan capital outstanding.

HAROM HOLDINGS BERHAD

CONSOLIDATED STATEMENT OF SOURCE AND USE OF FUNDS
For the year ended 31st December 1975

	$'000	*$'000*
Funds obtained from:		
Profit after taxation and before extraordinary items	110	
Depreciation and deferred taxation	109	
		219
Increase in creditors and other liabilities		139
Sale of land and other extraordinary items		137
		495
Funds used for:		
Purchases of fixed assets	200	
Goodwill arising from purchase of subsidiary	50	
Payment of dividends	32	
Increase in inventories	80	
Increase in debtors	39	
Increase in investment in associated company	10	
Repayment of loans	40	
		451
Increase in net cash balances		44

CHAPTER 7

Taxation in Malaysia

- SCOPE OF TAXATION
- COMPUTATION OF TAXABLE INCOME
- WITHHOLDING TAX ON INTEREST AND ROYALTIES
- INCOME FROM EMPLOYMENT
- PARTNERSHIPS
- TRUSTS
- ESTATES UNDER ADMINISTRATION
- NOTICE OF TAXATION
- APPEAL AGAINST ASSESSMENTS
- RELIEF FOR FOREIGN TAX
- COLLECTION AND RECOVERY OF TAX
- EXCESS PROFIT TAX
- SUPPLEMENTARY INCOME TAXES

Income tax was first introduced in Malaysia in 1947. It is a federal tax administered by the Department of Inland Revenue. The present tax legislation is embodied in the Income Tax Act 1967. There is also a subsidiary legislation, called the Supplementary Income Tax Act 1967, that governs the imposition of supplementary incomes taxes, namely, development, tin profits and timber profits taxes. Capital gains are not assessable for tax purposes in Malaysia, but the Land Speculation Tax Act 1974 provides for the assessment of capital gains arising from the disposal of land and buildings located in Malaysia.

This chapter covers the Malaysian tax legislation in effect as at June 25, 1975.

SCOPE OF TAXATION

Income tax in Malaysia is imposed on income that has a Malaysian source or, where its source is from outside Malaysia, only on entities resident in Malaysia. Nonresidents, therefore, are not subject to Malaysian tax on income derived from outside Malaysia even if such income is remitted to Malaysia.

However, in the case of entities resident in Malaysia that manage and control banking or insurance businesses or sea or air transport operations, a tax is levied on the income derived from outside Malaysia by these businesses even if said income is not remitted to Malaysia. The 'world income' scope of such businesses is retained in view of the administrative difficulties involved in determining separately the non-Malaysian income of these businesses.

Residence. For Malaysian tax purposes, incorporated or unincorporated bodies of persons qualify as residents of Malaysia if at any time during a base year the management and control of their businesses or affairs are exercised in Malaysia. Such management and control are deemed to be exercised at the place where the directors or management committee of said entities hold their meetings, regardless of where the company or body was incorporated or formed.

An individual is considered a resident of Malaysia if he is physically present in Malaysia for a period or periods totaling 182 days or more. An individual who resides in Malaysia for a total period of less than 182 days will also qualify as resident, for tax purposes, if certain other conditions are fulfilled.

The residential status of a trust body is determined by reference to the individual residence of each of its trustees.

COMPUTATION OF TAXABLE INCOME

Income tax is levied on the taxable income for a year beginning January 1 and ending December 31, termed the base year, for the year of assessment ending on December 31.

Where the financial accounts of a company or of a taxpayer's business are made up to a date other than December 31, the financial year ending in the year preceding the year of assessment constitutes the base year.

Income is not defined under the Malaysian Income Tax Act 1967, but the following sources of income are liable to taxation:

a. gains or profits from a business, for whatever period of time
b. gains or profits from employment
c. dividends, interest or discounts
d. rents, royalties or premiums
e. pensions, annuities or other periodical payments not falling under any of the foregoing categories
f. gains or profits of an income nature not falling under any of the foregoing categories.

A person who occupies or who has the right to occupy premises in Malaysia that are not occupied solely for business purposes is deemed to have an additional source of income, which is determined on the basis of the market or current rental value of such premises. However, an individual is allowed an exemption on the value of one residence that is owned and occupied by him throughout the base year.

The taxable income for any year of assessment is determined by deducting from gross income exempt income and allowable deductions.

Gross income from each source		x
Less: Allowable expenses		x
Adjusted income		x
Less:	Capital allowances (applicable to business and certain rental sources only)	x
Statutory income		x
Less:	Business losses brought forward from previous year (set off against business income only)	x
		x
Add:	Recovery of abortive prospecting expenditure	x
Aggregate income		x
Less:	Business loss for current year	x
	Abortive prospecting expenditure	x
	Donations to approved institutions	x
	Annuity payable by trustee or executor	x
Total income		x
Less:	Personal exemptions (applicable to resident individuals only)	x
Taxable income		x

In general, gross income from a source represents the amount receivable for the base period. The adjusted income is determined by deducting from gross income all outgoings and expenses wholly and exclusively incurred during the base period by the taxpayer in the earning of such income. Allowable expenses and deductions include the following:

1. Interest on borrowed capital used for acquiring income subject to adjustment where capital is used for non-income producing purposes.

2. Debts to the extent that they are not recoverable (recoveries being treated as gross income when received).

3. Capital expenditure incurred in mine prospecting and mining operations.

4. Expenses incurred in replanting of an approved crop on a plantation.

5. Employers' contributions to approved pension or provident funds, schemes, etc.

6. Expenditure not of a capital nature incurred on scientific research related to taxpayer's business.

7. Incorporation expenses including cost of drawing up preliminary contracts, stamp duties thereon and underwriting commission in the case of a company having authorized capital not exceeding $250,000.

8. Certain qualifying expenditures incurred by resident companies in promoting sales of goods abroad that were manufactured, produced, assembled, processed, packed, graded, or sorted in Malaysia in addition to the normal deduction for such expenditures.

9. Deduction known as export allowance given to resident companies whose businesses include production of manufactured goods. Deduction is 20 cents on every dollar spent for wages and for purchases of Malaysian materials with the final allowance amount calculated by reference to a formula based on a company's export performance.

Capital Allowances. Capital allowances are made after the adjusted income has been determined to arrive at the statutory income of a business.

Capital allowances are made in regard to expenditures incurred with:

1. Construction or purchase of industrial buildings and structures used in business.

2. Acquisition of machinery or plant equipment used in business.

3. Clearing of land, new planting of approved crops, construction of roads and buildings used wholly or partly for working an estate or forest, and construction of a building for the welfare or accommodation of employees.

There are two types of capital allowances, namely, initial and annual allowances. An initial allowance on capital expenditure is normally given for the year of assessment of the base period in which it was incurred. This allowance applies only to capital expenditure incurred under items 1 and 2 above.

An annual allowance on the original expenditure is also given until it is finally written off. A taxpayer who disposes of an asset at a lower price than its written-down cost is entitled to an allowance equal to the difference; conversely, he is liable to a charge on a balance limited by the sum total of all allowances received by him in regard to said expenditure.

Business Losses. A loss incurred by a taxpayer in any business activity in the base period is deductible from income from any source for the year of assessment in arriving at the total income. Any outstanding balance may be carried forward and deducted from business income for a succeeding year.

Deduction for Abortive Prospecting Operations. A person who has incurred a qualifying prospecting expenditure may within three months after the beginning of the year of assessment lodge a claim for the deduction of expenditure incurred by him on abortive prospecting in Malaysia provided he has permanently ceased operations and has no further intention of carrying out mining operations on the abandoned area, and provided the expenditure was incurred up to 10 years before the end of the base year for the year of assessment for which the claim was made.

Deduction of such expenditure is disallowed to the extent of any consideration received from the sale of rights related to exploration and the disposal value of machinery and plant used.

Donations to Approved Institutions. Gifts of money made by the taxpayer in the base year to the federal government or state government or to an approved institution or organization, and payments for obligatory religious dues are deductible in arriving at the total income.

Personal Exemptions. These exemptions are allowed to resident taxpayers only and are as follows:

1. Deduction of M$2,000 for self.

2. Deduction of 1/10 of net earned income subject to a maximum of $1,000 for self.

3. Deduction of M$1,000 for wife or former wife. Where wife's earned income is assessed separately, no deduction is given. A wife may elect to have her earned income assessed in her own name, thereby coming under the femme seule category. All such deductions as apply to an individual taxpayer apply to her also. Allowable deductions for children, however, will be permitted only on the husband's income tax return.

4. Deduction of 9/10 of wife's net earned income, subject to a maximum of M$500, where her net earned income does not exceed M$5,000; but where it exceeds M$5,000, deduction is 1/10 of wife's net earned income subject to a maximum of M$1,000. No deduction is allowed where entire earned income of wife is assessed separately.

5. Deductions for unmarried children under the age of 17 are on a graduated scale of from M$750 for a first child to M$300 for a fifth child. Where children are studying overseas in colleges or universities or serving under articles or indentures in order to qualify for a trade or

profession, deductions will be increased to the amount of maintenance expenditure incurred or double the amounts allowed, whichever is less.

In addition to the foregoing, a resident taxpayer is also entitled to a deduction of $300 for each child over the age of 16 who is unmarried and who is not receiving full-time education owing to physical or mental disability.

6. Deduction for life insurance premiums and obligatory contributions to an approved provident or pension fund. Maximum deduction under this category is M$3,000.

Individual Income Taxation. Resident taxpayers are subject to Malaysian income tax at progressive rates of from 6% on incomes of M$2,500 to 50% on incomes of over M$50,000. Nonresident taxpayers (and companies) are taxed at a flat rate of 40%. The tax rate is reduced to 15% if interest (other than interest on approved loans which is totally exempt from tax) and royalty incomes are derived from Malaysian sources. This reduced tax rate of 15% applies also to the earnings of artists, entertainers and athletes performing in Malaysia.

Company Taxation. The taxable income of a company is, broadly speaking, computed in the same way as that of an individual except that no personal exemptions are allowed. Certain types of companies, such as general and life insurance companies and nonresident sea and air transport operations, however, receive special treatment.

There is only one rate at which all types of companies, resident and nonresident alike, are taxed; and that is at the rate of 40% on every dollar of chargeable income. However, the nonresident companies receiving interest (other than interest on approved loans which is totally exempt from tax) and royalty incomes derived from Malaysian sources are taxed at the reduced rate of 15%.

Every company resident in Malaysia is required to withold tax at the rate of 40% on paying a dividend, regardless of the source of income from which dividends are paid. Where no tax deduction is made, dividends are deemed to be dividends of a gross amount which after tax deduction would be equal to the net amount paid. At the end of a base year, two totals are obtained for a resident company: one represents the tax paid or payable by the company on its income, the other represents the tax deducted or deductible from dividends paid to shareholders. Where the former total exceeds the latter, the difference is carried forward for payment of future dividends; where the latter exceeds the former, the excess becomes a debt due the tax authorities. The basis of the plan is that by withholding a dividends tax, a company can recoup any tax it may have to pay on its own income. Examples follow:

1. A company makes a trading profit of M$150,000 in 1975 on which it pays M$60,000 tax. It has not paid any tax in previous years. That same year it declares a gross dividend of M$100,000 from which tax at 40% is withheld. At December 31, 1975 both taxes are compared, and in this case, the excess of M$20,000 ($60,000 – $40,000) is carried forward for the payment of dividends in future years.

2. A company makes a trading profit of M$150,000 and a non-taxable profit of M$300,000 in 1975. It pays tax at 40% on the M$150,000. Its directors decide to declare a gross dividend of M$400,000 from which tax at 40% is deductible. The company's position at December 31, 1975, if no tax has been paid in previous years, is as follows:

Balance brought forward	M$ 000
Tax paid in 1975	60,000
Tax deducted from 1975 dividends	160,000
Amount owing tax authorities	M$100,000

It follows from the above that the ultimate liability for a company's tax in Malaysia, when dividends are declared, is borne by its shareholders. Thus, gross dividends must be geared to the taxable and non-taxable profits of a resident company in order to avoid payment of tax by shareholders on non-taxable income originally received by the company.

WITHHOLDING TAX ON INTEREST AND ROYALTIES

Where interest and royalties derived from Malaysian sources are payable to nonresidents, the payer is required to withhold tax at 15% and to account for the deduction to the tax authorities within 30 days from the date of such payment.

INCOME FROM EMPLOYMENT

Any income received by an individual from employment in Malaysia is subject to Malaysian tax. The source of income is considered Malaysian if services are rendered in Malaysia, regardless of where payment is made. Earnings of employees, normally resident in Malaysia, who are temporarily performing their duties outside the country on behalf of their Malaysian employers, are taxable in Malaysia. Earnings of employees on regular rather than temporary assignments outside Malaysia, however, are not subject to Malaysian tax, even though their Malaysian employers are allowed to deduct expenses involved with such assignments.

In the case of a director of a resident company, the remuneration received by such an individual is deemed to be income derived from Malaysia.

Remuneration received by an individual employed aboard a ship or aircraft of Malaysian ownership is also deemed to be derived from a Malaysian source.

There are, however, provisions under the Malaysian Income Tax Act 1967 for exempting the employment income of certain individuals only temporarily residing in Malaysia. Such exemption is accorded an individual who is not resident for a base year and whose total period of employment does not exceed 60 days. Exemption is also given an individual who is employed in Malaysia for a period of not over 60 consecutive days which overlaps two base years, provided the individual is not resident for the two base years.

Excluded from the exemptions mentioned is the income received by public entertainers (e.g., stage, radio and television artists, musicians, athletes, etc.) whose remuneration is wholly paid from a foreign country's public funds.

PARTNERSHIPS

A partnership is not a taxable entity. Each partner is subject to taxation on the income he derives from the partnership and on all other income accruing directly to him.

Annual returns must be submitted by partnerships, however, to enable the tax authorities to ascertain each individual partner's share of the taxable income from the partnership.

TRUSTS

The trust body of a trust is assessable and chargeable to tax on the total income of the trust body for a year of assessment. If the trust body is resident for the base year for the year of assessment, it is assessed a tax on the income accruing in or derived from Malaysia or received from outside Malaysia; if the trust body is not resident for the base year for the year of assessment, it is assessed and charged a tax on the income derived from Malaysia for that year of assessment.

A trust body shall be regarded as resident for the base year for a year of assessment if any trustee member of that body is resident for the base year and provided that:

1. The trust was created outside Malaysia by a person (or persons) who was not a citizen.

2. The income of the trust body for the base year is wholly derived from outside Malaysia.

3. The trust is administered for the whole of the base year from outside Malaysia.

4. At least one-half of the number of the member trustees is not resident in Malaysia for the base year.

The income of the trust body of a trust shall be assessed and charged to tax separately from the income of a beneficiary from any source of his in relation to the trust, whether or not that beneficiary is also a trustee member of that body, and in so assessing and charging that body by reference to its chargeable income for a year of assessment regard shall be had to the whole of its total income for that year, notwithstanding that the amount of a share thereof may be statutory income of a beneficiary and provided that:

1. The trust body of a trust is resident for the base year for a year of assessment.

2. A beneficiary who has a share of the total income of the trust body for that year of assessment is resident for the base year for that year of assessment.

The Department of Inland Revenue may, in ascertaining the chargeable income of the trust body for that year of assessment, deduct from the total income the beneficiary's share.

A beneficiary's share of the total income of the trust body for a year of assessment is deemed to be his statutory income from his ordinary source for that year of assessment. If any part of the total income of the trust body is subject to income tax in Malaysia for a year of assessment and it is also included in the aggregate income of a beneficiary for that year of assessment, the latter is entitled to a set-off of the tax borne by the trust body in respect to his income therefrom.

Taxation in Malaysia

ESTATES UNDER ADMINISTRATION

The income of a deceased individual after the date of death is treated as income accruing to his executor. Estates under administration are classified into two categories, viz:

1. Those where an individual dies while living in Malaysia. In an estate of this category, if one of the executors is resident in Malaysia during the base year for a year of assessment, all the income derived from within and without Malaysia is taxable. If none of the executors is a resident, taxable income is confined to that derived solely from Malaysia.

2. Those where an individual dies while living outside Malaysia. In this type of estate, taxable income (regardless of whether or not an executor is a resident) will be that income derived from Malaysia only.

At the time of death, a resident individual's estate is allowed a deduction of M$2,000 (personal relief). No deduction is allowed on a nonresident's estate. Both estates are then taxed at rates applicable to either resident or nonresident status.

NOTICE OF TAXATION

An annual income tax return must be filed with the Department of Inland Revenue within 30 days of its receipt. Anyone not receiving such notice in the three-month period ending on March 31 is required to so inform the department within 14 days after expiration of that date. Similarly, anyone arriving in Malaysia subject to its tax laws must so inform the aforementioned department within two months of his arrival in the country.

APPEAL AGAINST ASSESSMENTS

There is a right of appeal against assessments issued by the Department of Inland Revenue. A taxpayer may appeal to the Special Commissioners of Income Tax, the High Court, the Federal Court, and lastly to the Privy Council in London whose decision will be final.

RELIEF FOR FOREIGN TAX

Where overseas income is assessed for Malaysian tax and such income has already been taxed by a foreign country, two types of relief are obtainable in Malaysia, namely, bilateral and unilateral relief.

Bilaterial Relief. Malaysia has concluded bilateral treaties with several countries whereby certain incomes derived from Malaysian sources by residents of these countries are completely exempt from Malaysian tax, and where there is no complete exemption Malaysian tax liability will be reduced by the appropriate rate prescribed under the treaties. Residents of Malaysia receiving income from these countries will also have their Malaysian tax liability reduced on these overseas incomes by a credit allowance on the foreign tax suffered. Under no circumstances will the credit be allowed to exceed the Malaysian tax chargeable on these overseas incomes.

Unilateral Relief. This relief applies only to residents who are liable to local tax on income received from countries with which Malaysia has no bilateral tax treaties. Where these overseas incomes have already been taxed by a foreign country, credit will be allowed for 50% of the foreign tax imposed against the Malaysian tax payable on such incomes. Again, under no circumstances will the credit on foreign taxation be allowed to exceed the Malaysian tax chargeable on the overseas incomes concerned.

COLLECTION AND RECOVERY OF TAX

Assessed tax on chargeable income becomes due upon receipt of assessment notice notwithstanding any appeal which may be pending against such assessment. Where tax is not paid within 30 days of the date of service of the notice, or within such period as the Inland Revenue Department may allow, a sum equal to 10% of the unpaid tax will be added to the tax payable and recovered without service of a separate notice.

Where opportunity exists for non-payment of outstanding tax liabilities, a person may be prevented from leaving the country until and unless he pays all such tax liabilities or is able to furnish satisfactory security to the Department of Inland Revenue on his outstanding debts.

In the case of employees, the director general of the Inland Revenue Department may have such taxes as apply to individuals withheld from wages or salaries despite the fact that the tax demanded may not yet have been assessed.

EXCESS PROFIT TAX

Excess profit tax, introduced in the 1975 budget, is levied on excess taxable income at the flat rate of 5%. This tax is charged, in addition to income and development taxes, on all income that exceeds, in the case of:

1. A company, other than a company mentioned in subparagraph 2, 25% of the shareholders' funds on the first day of the base period for the year of assessment or M$200,000, whichever is the greater;

2. A company that is not resident for the base period and that operates in Malaysia through an office, branch, establishment, agent, or representative, M$200,000;

3. Every other person, M$75,000.

However, excess profit tax is not levied on income from tin-mining or timber operations.

SUPPLEMENTARY INCOME TAXES

Development Tax. This tax is imposed on income arising from business sources and from rental of property located in Malaysia. The tax is also charged at the rate of 5%. Companies are liable to a certain minimum amount of development tax (ranging from M$100 to $500) so long as they have the aforementioned sources of income and even if they have incurred a loss for the base period.

Tin Profits Tax. Tax is levied on income derived from tin-mining operations in Malaysia, including tribute from leasing of mining lands. The tax is charged at the flat rate of 10% on taxable tin profits exceeding M$10,000 for each assessment year.

Timber Profits Tax. Tax is imposed on income arising from logging activity in Malaysia, including tribute from leasing of forest concessions. Tax is charged at 10% on every dollar of taxable timber profits not exceeding 10% of the gross profit, and at 20% on every dollar of the taxable profits exceeding that part of the profits first taxed.

Property Tax. Tax on properties is levied by the municipalities or town councils, and this annual tax is calculated on a certain percentage of the gross annual value of the properties concerned.

Land Speculation Tax. As stated in the beginning of this chapter, this tax was introduced in 1974 to curb excessive speculation in land and buildings in Malaysia. Where taxable assets, i.e., land and buildings, are disposed of within two years of purchase and the sale of such assets exceeds M$100,000, the profits from said sale are liable to this tax at the punitive rate of 50%. However, where the chargeable assets are subject to tax under the Income Tax Act 1967, the profits derived from the disposal of those assets are exempt from this land speculation tax.

Note: Tax incentives have been discussed in Chapter 2 under *Investment Incentives.*

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